

MILFORD CITY COUNCIL
MINUTES OF MEETING
July 28, 2008

A Council Meeting of Milford City Council was held in the Meeting Room of the Delaware Rural Water Association Facility at 210 Vickers Drive, Milford, Delaware on Monday, July 28, 2008.

PRESIDING: Honorable Mayor Daniel Marabello

IN ATTENDANCE: Councilpersons Irvin Ambrose, Michael Spillane, John Workman, Clifford Crouch, Owen Brooks, Jr. and James Starling, Sr.

STAFF: City Manager David Baird, Police Chief Keith Hudson and City Clerk/Recorder Terri Hudson

COUNSEL: City Solicitor Timothy Willard

Mayor Marabello called the Council Meeting to order at 8:59 p.m.

Introduction of Ordinance 2008-12/Chapter 200/Amendment to Subdivision Code

The following ordinance was introduced for council review:

The City of Milford hereby ordains:

Section 1.

The Code of the City of Milford is hereby amended by deleting and repealing Chapter 200, Subdivision of Land, in its entirety.

Section 2.

The Code of the City of Milford is hereby amended by adding thereto a new chapter, to replace Chapter 200, hereinabove repealed, to be Chapter 200, Subdivision of Land, to read as follows:

AN ORDINANCE TO AMEND the Code of the City of Milford by deleting and repealing Chapter 200, thereof, Subdivision of Land, and replacing it with a new Chapter 200, to be entitled Subdivision of Land, which chapter promotes and protects the public health, safety, convenience and general welfare; ensures the orderly growth and development of the City, the conservation, protection and proper use of land and adequate provisions for housing, recreation, circulation, utilities and services; and safeguards the City from undue future expenditure for the maintenance of streets and public spaces.

The City of Milford hereby ordains:

Section 1.

The Code of the City of Milford is hereby amended by deleting and repealing Chapter 200, Subdivision of Land, in its entirety.

Section 2.

The Code of the City of Milford is hereby amended by adding thereto a new chapter, to replace Chapter 200, hereinabove repealed, to be Chapter 200, Subdivision of Land, to read as follows:

§ 200-1. Purpose.

These regulations are adopted in order to promote and protect the public health, safety, convenience and general welfare;

ensure the orderly growth and development of the City, the conservation, protection and proper use of land and adequate provision for housing, recreation, circulation, utilities and services; and safeguard the City from undue future expenditure for the maintenance of streets and public spaces.

§ 200-2. Title.

These regulations shall be known and may be cited as the "City of Milford, Delaware, Land Subdivision Regulations."

§ 200-3. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

COMMISSION — The Planning Commission of the City of Milford, Delaware.

OPEN SPACE – (DELETE) ~~Any land laid out as a public garden or used for the purposes of public recreation. This means space which has unimpeded public access, and which is of a suitable size and nature for sport, active or passive recreation for all age groups. This may include but is not limited to the following: Natural areas, wildlife and native plant habitat areas, stream corridors, passive or low-impact activities, trails for non-motorized activities.~~

(ADD) *Areas of land designated for public or private recreational use, limited to such items as parks, plazas, landscaped areas, gardens, walkways and trails, organized sporting event areas and passive recreational areas. Key points of these requirements are that no more than fifty percent (50%) of the designated open space can be in "wetlands or storm water management facilities, etc." Open space prohibits flag pole areas, medians, signage areas or required front, side, or rear yards of proposed residential developments and are maintained by an HOA, not any individual property owner.*

PLAT — The final drawing on which the subdivision plan is presented to the City Council for approval and submitted to the County Recorder of Deeds for recording.

PROPERTY OWNERS ASSOCIATION — An association established by the subdivider as a non-stock corporation to provide for the perpetual maintenance of the common property in the subdivision.

ROADWAY — The paved portion of the street primarily used for vehicular traffic.

A. ARTERIAL STREET and HIGHWAY — A street primarily used for fast and/or heavy traffic.

B. COLLECTOR STREET — A street carrying traffic from minor streets to arterial streets and highways, including the principal traffic and entrance streets of a residential development.

C. MINOR STREET — A street primarily used for access to the abutting properties.

D. MARGINAL ACCESS STREET — A minor street paralleling and adjacent to an arterial street or highway and providing access to abutting properties and protection from through traffic.

E. DEAD-END STREET or CUL-DE-SAC — A street closed at one end and having only one connection with any other street.

F. HALF STREET — A street paralleling the boundary of a subdivision and lying partly in an abutting tract.

STANDARD SPECIFICATIONS FOR INSTALLATION OF UTILITY CONSTRUCTION PROJECTS AND SUBDIVISION PAVEMENT DESIGN — The current specifications regulating subdivision design and construction as adopted by the City.

STREET — All land between property lines, whether designated as a street, highway, throughway, thoroughfare, avenue, boulevard, road, parkway, right-of-way lane, place, court or any similar term.

SUBDIVIDER — Any person, firm, corporation, partnership or association or duly authorized agent who or which shall apply to the Commission for approval of the layout of any subdivision.

SUBDIVISION — The division or redivision of any tract of land into two or more lots or parcels for immediate or future sale or for building development.

SUBDIVISION, MINOR — Any subdivision fronting on an existing street, not involving any new street or road, not involving the extension of any municipal water or wastewater mains, not adversely affecting the development of the remainder of the parcel or adjoining property, and not in conflict with any provision or portion of the development plan, Official Map, Chapter 230, Zoning, or this chapter; limited to four lots.

SUPERBLOCK — An oversize residential block wherein private open spaces, closed to automobile traffic, are provided for the common use of all residents in the block.

ALLEY — A service roadway providing a secondary means of public access to abutting property and not intended for general traffic circulation.

RIGHT-OF-WAY — A strip of land acquired by reservation, dedication, forced dedication, prescription, or condemnation and intended to be occupied by a road, crosswalk, railroad, electric transmission lines, gas pipelines, and water line, sanitary storm sewer, and other similar uses.

§ 200-4. Application procedure.

A. Preliminary approval.

(1) A preliminary plan and documents, as specified by the Planning Department, shall be prepared by the subdivider and submitted in accordance with the submission schedule as determined by the City Planner, along with the appropriate fees, as specified in §230-57.

(2) The Development Advisory Committee shall review the application and plan. Comments from the DAC must be addressed via either submitting revised plans and/or necessary documents or via a narrative submitted to the City Planner. Upon confirmation by the City Planner that all DAC issues have been addressed satisfactorily, the application will then be scheduled to be heard by the Planning Commission.

(3) The Planning Commission shall review the application and provide either a recommendation of preliminary approval with or without conditions, a recommendation of denial, or table the application. Upon a recommendation of approval with or without conditions or recommendation of denial, the application shall be scheduled to be heard by the City Council.

(4) City Council shall grant preliminarily approval of the application with or without conditions, deny the application, or table the application.

(5) Preliminary approval from City Council shall be void after one year, unless an extension is requested by the owner and approved by City Council prior to the expiration.

B. Final approval.

(1) A final plat and documents, as specified by the Planning Department, shall be prepared by the subdivider and submitted in accordance with the submission schedule as determined by City Planner, along with the appropriate fees, as specified in §230-57.

(2) The Development Advisory Committee shall review the application and plan. Comments from the DAC must be addressed via either submitting revised plans and/or necessary documents or via a narrative submitted to the City Planner. The final plan shall also be reviewed by the City Planner for confirmation that the application is designed in accordance with all subdivision, zoning and other land use regulations of the City. The final plan shall also be reviewed by the City Engineer for confirmation that the application is designed in accordance with the construction standards and specifications of the City. Upon confirmation by the City Planner and City Engineer that all issues have been addressed satisfactorily, the application will be scheduled to be heard by the Planning Commission.

(3) The Planning Commission shall review the application and provide either a recommendation of preliminary approval with or without conditions, a recommendation of denial, or table the application. Upon a recommendation of approval with or without conditions, or recommendation of denial, the application shall be scheduled to be heard by City Council.

(4) City Council shall approve the application with or without conditions, deny the application, or table the application.

(5) Within 90 days of final approval from City Council, the subdivider shall record the plat at the County Recorder of Deeds office and provide the City Planner a receipt of the recordation including the deed book and page number. Prior to recording the plat, five copies of the plat must be submitted to the City Planner for stamping and signing. Four sets will be returned to the subdivider.

(6) Upon recordation of the plat, the subdivider shall provide the Land Data Manager of the City a mylar copy of the plat including the deed book and page printed thereon.

(7) Failure to record the approved plat within one year from the date of City Council approval shall void the final approval. In order to obtain final approval after it has been voided, the subdivider must make application for final approval again.

(8) Failure to record the approved plat in more than one year from the date of City Council approval shall void the preliminary approval and final approval. In order to obtain preliminary and final approval after they have been voided, the subdivider must make application for and receive preliminary approval, then make application for and receive final approval.

§ 200-5. General requirements and design standards.

The following shall be deemed to be minimum requirements and may be varied or waived by the Commission only under circumstances set forth in § 200-6:

A. Streets.

(1) The layout, character, extent, width, grade and location of proposed streets shall be established with due regard to:

(a) Public convenience and safety.

(b) Proposed uses of the land to be served by said streets.

(c) Proper relation and connection with and continuation and projection of streets in the adjacent areas, whether these streets are existing or proposed in another subdivision in a neighborhood plan, in the development plan or in the Official Map, as approved or adopted by the Commission.

(d) Topography and other land features.

(2) The layout of proposed streets shall furthermore be arranged in a manner acceptable to the Commission and City Council.

(3) Minor streets shall be laid out so as to discourage their use by through traffic.

(4) Where a subdivision abuts or contains an existing or proposed arterial street, limited access highway or railroad, the City Council may require marginal access or service streets, reverse frontage with screen planting contained in a nonaccess reservation along the rear property line and deep lots with rear service alleys or other treatment, such as parks, which may be necessary for the protection of residential properties and for separation of through and local traffic, with due regard for the requirements of future approach grades and grade separations.

(5) Where a tract of land is subdivided into lots substantially larger than the minimum size required in the zoning district in which a subdivision is located, the Commission may require that streets and lots be laid out so as to permit future resubdivision in accordance with the requirements of this chapter.

(6) Reserve strips controlling access to streets shall be prohibited except where the control and disposal of land comprising such strips has been placed in the governing body under conditions approved by the City Council such as provided in Subsection A(4) above.

(7) Certain proposed streets may be required to be extended to the boundary line of the subdivision to provide access to tracts which may be subdivided in the future. Wherever necessary, when a street is carried to the boundary line of the subdivision, the City Council may require a temporary turnaround improved to the satisfaction of the City Engineer and of the size specified in Subsection A(16) below at the stub end.

(8) The creation of dead-end or loop streets and superblocks will be encouraged wherever the City Council finds that such layout will not interfere with traffic convenience and safety. The City Council shall determine the number of connections of streets in the proposed subdivision with existing streets. At least two such connections shall be provided, except where a proposed subdivision only contains one dead-end street.

(9) Street jogs shall be prohibited. Street intersections, where center lines do not meet, shall have center-line offsets of 150 feet or more.

(10) A tangent at least 100 feet long shall be introduced between reverse curves on arterial and collector streets and may be required on all other streets.

(11) Street right-of-way lines deflecting from each other at any point shall be connected with a curve, the radius of which for the inner right-of-way lines shall not be less than 750 feet on arterial streets, 300 feet on collector streets and 100 feet on minor streets. The outer right-of-way line shall be parallel to said inner right-of-way line.

(12) Streets shall be laid out so as to intersect as nearly as possible at right angles. The inner right-of-way line of a street intersecting another street at an angle of less than 90° shall be tangent to and follow a curve with a minimum

radius of 150 feet centered on the nearest right-of-way line of the intersecting street. The outer right-of-way line shall be parallel to said inner right-of-way line.

(13) Street right-of-way lines at intersections shall be connected with a curve, the radius of which shall be 25 feet.

(14) Right-of-way widths.

(a) Street right-of-way widths shall be as shown on the Official Map or development plan, and, if not shown thereon, said widths for the various street types between face of curb or edge of road shall not be less than as follows:

Street Type	Right-of-Way (feet)	Roadway (feet)
Arterial	80 to 110	As required by DelDOT
Collector	60	28
Minor, for townhouses and apartments	60	30
Minor, for other residences	50	25
Dead-end	50	22
Marginal access	30	16
*Alley	20	12

* If utilities are present in an alley, the City reserves the right to modify the minimum right of way and roadway widths.

(b) Subdivisions utilizing open swale drainage shall have a ten-foot drainage easement along the front of each property to accommodate the back slope of the drainage swales.

(15) Half streets shall be prohibited except where essential to the reasonable development of a subdivision in conformity with the requirements of this chapter and where the Commission finds that it shall be practicable to require the dedication of the other half when the abutting property is subdivided. Wherever an approved half street shall be adjacent to a subdivision, the other half of the street shall be platted within said subdivision.

(16) Dead-end streets, designed to be so permanently, shall not be longer than 400 feet and shall be provided at the closed end with a turnaround having an outside roadway diameter of 76 feet and a street right-of-way diameter of 100 feet.

(17) Street names.

(a) Street names shall be selected so as not to duplicate or be confused with the names of existing streets. Street names shall be subject to the approval of the Commission. It is recommended that all new streets shall be named in the following manner:

General Direction	Long	Short (under 1,000 feet)
North and south	Streets	Places
East and west	Avenues	Courts
Diagonal	Roads	Ways
Curving	Drives	Lanes or circles

(b) Arterial streets shall be named boulevards.

(18) Street grades shall not exceed 5%.

(19) Street grades shall be not less than 0.5% wherever feasible.

(20) Changes in street grades shall be connected by vertical curves of suitable length.

(21) The width of streets adjacent to areas designed, proposed or zoned for nonresidential use shall be increased by such amount as may be deemed necessary by the Commission to assure the free flow of through traffic without interference by parked or parking cars and to provide adequate and safe parking space.

(22) All required roads shall be constructed in accordance with the standard specifications as issued by the City Engineer.

B. Sidewalks and curbs.

(1) Sidewalks shall be required in all subdivisions. Sidewalks shall have the following widths:

(a) In residential subdivisions: four feet unless otherwise specified.

(b) In commercial and industrial subdivisions: from the curb to property lines unless otherwise specified.

(2) Curbs or drainage swales conveying stormwater shall be required in all subdivisions.

(3) All required sidewalks shall be constructed in accordance with standard specifications as issued by the City Engineer.

C. Easements. Where a subdivision is traversed by a watercourse, drainageway, channel, pipe or stream, there shall be provided a stormwater easement or drainage right-of-way of such width as will be adequate for the purpose, in accordance with requirements specified by the City Engineer. Parallel streets or parkways may be required in relation thereto.

D. Blocks.

- (1) The lengths, widths and shapes of blocks shall be determined with due regard to:
 - (a) The provision of building sites suitable to the needs of the type of use contemplated.
 - (b) Zoning requirements as to lot sizes and dimensions.
 - (c) The control, safety and convenience of pedestrian and vehicular traffic.
 - (d) The characteristics of topography.
- (2) Block length shall not exceed 1,200 feet.
- (3) Block widths shall be not less than 275 feet nor more than 450 feet and shall be planned to provide two rows of lots.
- (4) Pedestrian walkways other than in streets may be required where deemed essential to provide for circulation or access to schools, playgrounds, shopping centers, transportation and other community facilities. Said walkways shall be not less than four feet wide.
- (5) Alleys shall be provided if required by the City Engineer.

E. Lots.

- (1) Lot width, depth, shape and orientation and the building setback lines shall be appropriate for the location of the subdivision, for the type of development and for the use contemplated.
- (2) Lot sizes shall conform to the requirements of Chapter 230, Zoning.
- (3) Depth and width of properties reserved or laid out for commercial and industrial purposes shall be adequate to comply with the off-street parking and loading requirements contained in Chapter 230, Zoning.
- (4) Corner lots shall have sufficient width to provide an adequate building site within all the yard requirements. Corner lots shall have two front yard setbacks fronting each street, one side yard setback, and one rear yard setback.
- (5) All lots in a subdivision shall have frontage on a public street.
- (6) Double-frontage lots shall be avoided. Reverse-frontage lots shall be provided where necessary for protection of residential properties from through traffic and adverse nonresidential uses, for separation of through and local traffic and to overcome difficulties of topography or other specific conditions. Screen planting and a fence or wall shall be provided along the rear property line within an easement 10 feet or more in width, across which there shall be no right of access.
- (7) Side lot lines shall be at right angles or radial to street lines.
- (8) No lots shall be platted on land subject to flooding for residential or any other use where danger to life or property or an aggravation of flood hazard may result. Such land should be set aside for uses which would not be endangered by periodic or occasional inundations.
- (9) No lots shall be platted within 25 feet of land under the jurisdiction of the U.S. Army Corps of Engineers.

F. Parks, playgrounds, open spaces, school sites and natural features.

- (1) Parks and playgrounds. Where a proposed park or playground is located in whole or in part in a subdivision, the Commission may require the dedication or reservation of such area within the subdivision, in those cases in which the Commission deems such requirements to be reasonable.
- (2) Open spaces. Where deemed essential by the Commission and City Planner, upon consideration of the particular type of development proposed in the subdivision, and especially in large-scale developments, the Commission or City Planner may require the dedication or reservation of sites of a character, extent and location suitable to the needs created by such development for playgrounds or parks. The Commission shall not require that more than 10% of the gross area of the open space of the subdivision to be so dedicated or reserved unless otherwise specified by the Zoning Code. In case of a conflict, the requirement of the Zoning Code prevails. The Commission shall give due credit for the provision of open spaces reserved for the common use of all property owners within the proposed subdivision by covenants in the deeds. Generally, the minimum area of contiguous open space acceptable for dedication for public use shall be at least three and preferably five acres. Open spaces with a lesser area may be approved by the Commission whenever it deems that the difference between the area offered and three acres may be made up in connection with the future subdivision of adjacent land or added to an existing recreation area.
- (3) School sites or sites for other public uses. The Commission may also require a subdivider to set aside such area

as it may deem to be required for a school or other public use. Upon failure of the proper authorities to purchase such site within one year after the date of the approval of the plat, the subdivider, upon application to the Commission and approval of such application, shall be relieved of the responsibility of reserving such land for public purposes.

(4) Preservation of natural features. The Commission may require the preservation of all natural features which add value to residential developments and to the community, such as large trees or groves, watercourses and historic spots and similar irreplaceable assets. In no case shall a tree over 12 inches in diameter measured three feet from the base be removed without prior approval by the City Arborist.

G. General grading. No final slope on the property shall exceed the normal angle of repose of the soil of said slope as determined by the City Engineer, except where said slope consists of a natural rock formation or is supported by a retaining wall or equivalent of a design acceptable to the City Engineer.

H. Improvements.

(1) In major subdivisions the following improvements are required:

(a) Paved streets.

(b) Street signs.

(c) Curbs and gutters, or roadside swales. Curbs shall be required as per standard specifications to stabilize intersections, entrances, and parking areas, and where they are necessary for the conveyance of stormwater and protecting road surfaces and driveway surfaces from vehicular traffic.

(d) Sidewalks.

(e) Streetlighting.

(f) Shade trees. Shade trees 150 feet on center each side of the road shall be located so as not to interfere with utilities or sidewalks and shall be of the types recommended by the City Arborist.

(g) Topsoil protection. No topsoil shall be removed from the site or used as spoil. Topsoil moved during the course of construction shall be redistributed so as to provide adequate cover, as determined by the City Engineer, to all areas of the subdivision and shall be stabilized by seeding or planting.

(h) Monuments. Monuments shall be of the type, size and shape required by the City Engineer.

(i) Water mains, culverts, storm sewers and sanitary sewers.

[1] All water installations shall be looped, all sewer and storm sewer systems shall be extended at minimum slope, maximum depth, and connected with an approved method and shall be adequate to handle all present and probable future development.

[2] All of the above-listed improvements shall be subject to inspection and approval by the City Engineer, who shall be notified by the subdivider at least 24 hours prior to the start of construction. No underground installation shall be covered until inspected and approved.

[3] Utility easements shall be required to be granted and recorded by the subdivider to allow extension of utilities to neighboring properties.

(j) Swales. Conveyance of stormwater is permitted by open drainage systems where appropriate for environmental and engineering integrity and design. Such systems shall be separated from the edge of road to the top of bank by a minimum five-foot shoulder. The depth of such systems shall not exceed two feet below crown of road. The side slope shall be a maximum of 4:1. The bottom of the system shall have a minimum width of two feet. The system slope shall be such that the maximum velocity does not exceed two feet per second. The system has to be designed in such a way as to incorporate driveway and cross-road drainage pipes; such systems shall be restored with topsoil and sod. Temporary check dams shall be placed in intervals not to exceed 300 feet.

(k) Headwalls. Storm drainage pipes which are part of an open swale drainage system shall be terminated with a headwall in accordance with standard specifications.

(2) The developer shall complete all utilities and street improvements not specifically waived by the Commission in accordance with standard specifications as issued by the City Engineer and with any additional requirements specified by the Commission. Construction drawings shall be submitted in a form satisfactory to the City Engineer.

(3) When the Commission or the City Engineer, due to planning considerations extraneous to the subdivision, requires a standard of improvements higher than that which is sufficient to serve the subdivision, the amount of the bond to be posted shall be deemed to be satisfactory if it adequately covers the cost of improvements which would be normally required.

(4) The developer shall pay the review and inspection fees as set forth in Chapter 230, Zoning, § 230-57, Planning and zoning fees. The cost for each segment or phase of the development shall be paid prior to commencement of utility

construction.

§ 200-6. Variances and waivers.

Applicants may request, at the time of application submission, the varying or waiving of requirements of Chapter 230, and the Planning Commission may, at its discretion, recommend to City Council the varying or waiving of said requirements and request conditions that substantially secure the objectives of the requirements so waived. Upon the findings of the City Council that, due to special conditions peculiar to a subdivision or a site, certain requirements of these regulations are inappropriate or that strict compliance with said requirements may cause extraordinary and unnecessary hardships, the City Council may vary or waive said requirements, provided that such variance or waiver shall not be detrimental to the public health, safety or general welfare or have the effect of nullifying the intent and purpose of the Official Map, Chapter 230, Zoning, the Development Plan or this chapter. In varying or waiving certain requirements, the City Council may specify such conditions at will, in its judgment, secure substantially the objectives of the requirements so varied or waived.

Section 3: Dates

Planning Commission Review: August 19, 2008

Projected Adoption Date: August 25, 2008

Projected Effective Date: September 4, 2008

City Planner Norris advised the amendment to the subdivision code has been a joint effort of the city manager, the city engineer and Mr. Norris.

Mr. Spillane questioned the requirement that no more than 50% of open space can include stormwater ponds and swamp lands. Mr. Spillane feels it should be reduced from 10% to zero because you cannot use swamp or stormwater ponds. Mr. Norris agreed with Mr. Spillane.

Mr. Workman pointed out a lot of developers use those areas in their calculations to prevent providing actual open spaces that could be used for recreation of some sort. Mr. Norris noted that those areas are included in the calculation of density. Mr. Spillane asked that be changed to zero.

Mr. Baird feels council should go through the process with the ordinance as it is being presented. The planning commission will then review the ordinance before it comes back to council. Following that, a list of proposed amendments should be presented. Mr. Baird added that Mr. Norris will keep a list with the proposed changes. The list will then be considered by council who will vote on each proposal one by one.

Mr. Spillane will submit his proposals to the city planner; City Solicitor Willard will also submit some changes involving technical matters.

Mr. Brooks asked why this is not being reviewed in a workshop session as has been done previously. Mr. Willard suggested that council discuss any recommendations in a workshop before the ordinance is voted on.

Mr. Norris advised the planning commission will review the ordinance on August 19th and was scheduled to come back before council on August 25th. He noted the adoption date shown on the ordinance is only a projected date and can be changed. He asked anyone with changes to submit those changes as soon as possible so they can be discussed with the planning commission.

In clarifying the schedule, Mr. Baird reiterated the planning commission will review this on August 19th and council on August 25th. He said that any proposed changes should be discussed in some sort of workshop setting.

Introduction of Ordinance 2008-13/Chapter 230/Zoning Chapter

The following ordinance was officially introduced for council review:

AN ORDINANCE TO AMEND the Code of the City of Milford by amending Chapter 230, thereof, Zoning, which chapter classifies, regulates and restricts the height, number of stories and size of buildings and other structures, the percentage of lot that may be occupied, the size of yards, courts and other open spaces, the density of population and the location, use and extent of use of buildings, structures and land for residence, trade, industry and other purposes; creates districts for said purpose and establish a Board of Adjustment; and imposes penalties for violations, so as to lessen congestion in the streets; secures safety from fire, panic and other dangers; provides adequate light and air; prevent undue concentration of population and overcrowding of land; facilitates the adequate provision of transportation, water, sewage, school, park and other public requirements; conserves the value of buildings and encourage the most appropriate use of land; and promotes the health, safety, morals and general welfare of the City of Milford.

The City of Milford hereby ordains:

Section 1.

The Code of the City of Milford is hereby amended by amending Chapter 230, Zoning to read as follows:

Section 2.

§ 230-4 Definitions.

(Add) *BED AND BREAKFAST: A private owner occupied residence with one to six guestrooms. The bed and breakfast is subordinate and incidental to the main residential use of the building. Individual guests are prohibited from staying at a particular bed and breakfast establishment for more than fourteen (14) days in any one-year period.*

R-1 District:

§ 230-9 (C)

(Add)

(12) *Bed and Breakfast, subject to the following requirements:*

(a) The bed-and-breakfast establishment does not adversely affect the residential character of the neighborhood and such use is carried on in an existing residential structure.

(b) The building proposed for use as a bed-and-breakfast must have the owner of the bed-and-breakfast residing in the building as his/her principal residence

(c) ~~The only meal to be provided guests shall be breakfast, and it shall only be served to guest taking lodging in the facility.~~ The serving of meals shall be limited to breakfast and afternoon tear for overnight guests and customers.

(d) Rooms used for sleeping shall be part of the primary residential structure and shall not have been specifically constructed for rental purposes.

(e) No exterior alterations other than sign and those required by law to ensure the safety of the structure shall be made.

(f) The Bed and Breakfast operation shall not use more than fifty (50%) percent of the floor area of the principal residence. Common areas such as the kitchen, foyer, living room or dining room, are not included in this calculation.

(g) No areas shall be floodlit. Drives and parking areas shall not be illuminated by lighting fixtures higher than twenty (20) feet. Sidewalks shall not be illuminated by lighting fixtures higher than fifteen (15) feet. Exterior lighting shall be so shaded as to prevent illumination off-site. All external lighting, except for demonstrated security needs, shall be extinguished by 10:00 P.M.

(h) All Bed and Breakfasts must be in compliance with the requirements of the Uniform Building Code and Uniform Fire Code as adapted and enforced by the state fire marshal. Requirements include smoke detectors centrally located on each floor with sleeping rooms and the basement stairway. They must have battery backup and be connected or have a sounding device to provide an alarm which can be heard in all sleeping areas. Every sleeping room must provide at least 50 square feet of floor area per guest and have an operable window of 5.7 square feet or more of clear opening or exterior door for emergency escape or rescue. The maximum distance to a fire extinguisher rated 2A and having a BC rating is 75 feet.

(i) Safe food handling is the responsibility of the "host." He/she must properly train employees and other household members in safe food handling procedures and requirements and secure the proper State Health permit if applicable.

(j) *Parking requirements. One space per guestroom plus two spaces for residence. Spaces shall be located to the side and rear of the building and shall be screened from adjacent properties by a five-foot high wood or masonry fence or by sight-obscuring vegetation of the same height. The area of the parking lot, including driveways, shall be graded, surfaced with asphalt or other suitable material and drained to the satisfaction of the City Engineer to the extent necessary to prevent dust, erosion or excessive water flow across streets or adjoining properties.*

(k) *Signs. For each bed and breakfast, one small-unlighted announcement sign not exceeding three square feet in area may be attached to and parallel with the front porch or wall of the building.*

§ 230-9 (D)

(10) ~~Decks permitted in rear yards, subject to the following requirements:~~, subject to the following requirements:

(a) The deck cannot be located in the front ~~or side~~ yard.

(b) A minimum distance of 10 feet must be maintained from the deck to the rear property line.

~~(DELETE) (c) A deck attached to buildings located on the corner must not extend beyond the building line.~~

R-2 District:

§ 230-10 (G) 1

(Add)

(j) ~~Decks permitted in rear yards, subject to the following requirements:~~, subject to the following requirements: (a)

The deck cannot be located in the front ~~or side~~ yard.

(b) A minimum distance of 10 feet must be maintained from the deck to the rear property line.

R-3 District:

§ 230-11 (B) 1

(Add)

~~[8] Decks permitted in rear yards, subject to the following requirements:~~, subject to the following requirements: (a)

The deck cannot be located in the front ~~or side~~ yard.

(b) A minimum distance of 10 feet must be maintained from the deck to the rear property line.

§ 230-50. Purpose.

The site plan review has a twofold purpose. It is to assure that the large-scale developments are in accord with the Comprehensive Plan and that such developments comply with the regulations of this chapter. Site Plans are required to assure good arrangement and appearance of new development; ensure harmony with existing structures, assure consistency with the City's adopted building and design standards, the Comprehensive Plan, and the City's ~~(DELETE) Standard Specifications for Utility Construction Projects and Subdivision Pavement Design~~ (ADD) *Standard Specifications for Installation of Utility Construction Projects and Subdivision Pavement Design*; to provide an understanding of the impacts of proposed development on public facilities and services and ensure the availability and adequacy of the same; and to otherwise meet the purposes of this ordinance.

§ 230-52. Review procedure.

~~(DELETE) A. The proposed site plan shall first be referred to the Code Official. If the proposed site plan is one that this chapter automatically requires a site plan review for by the Planning Commission, such a site plan shall be referred to the Planning Commission. If the proposed site plan is not one enumerated in this chapter as a development that shall automatically require the Commission's review, the City Code Official, following guidelines listed by this chapter, shall determine if such a proposed development requires review by the Planning Commission. In case the Code Official determines that the proposed development requires a site plan review, he shall then refer copies of the site plan to the Planning Commission.~~

(ADD) A. *Preliminary approval.*

(1) A preliminary plan and documents, as specified by the Planning Department, shall be prepared by the applicant and submitted in accordance with the submission schedule as determined by the City Planner, along with the appropriate fees, as specified in §230-57.

(2) The Development Advisory Committee (DAC) shall review the application and plan. Comments from the DAC must be addressed via either submitting revised plans and/or necessary documents or via a narrative submitted to the City Planner. Upon confirmation by the City Planner that all DAC issues have been addressed satisfactorily,

the application will then be scheduled to be heard by the Planning Commission.

(3) The Planning Commission shall review the application and shall approve the application with or without conditions, deny the application, or table the application.

(5) Preliminary approval from Planning Commission shall be void after one year, unless an extension is requested by the owner and approved for good cause by Planning Commission prior to the expiration.

B. Final approval.

(1) A final plat and documents, as specified by the Planning Department, shall be prepared by the applicant and submitted in accordance with the submission schedule as determined by City Planner, along with the appropriate fees, as specified in §230-57.

(2) The Development Advisory Committee (DAC) shall review the application and plan. Comments from the DAC must be addressed via either submitting revised plans and/or necessary documents or via a narrative submitted to the City Planner. The final plan shall also be reviewed by the City Planner for confirmation that the application is designed in accordance with all subdivision, zoning and other land use regulations of the City. The final plan shall also be reviewed by the City Engineer for confirmation that the application is designed consistent with the preliminary plan, if applicable, in accordance with the construction standards and specifications of the City. Upon confirmation by the City Planner and City Engineer that all issues have been addressed satisfactorily, the application will be scheduled to be heard by the Planning Commission.

(3) The Planning Commission shall review the application and shall approve the application with or without conditions, deny the application, or table the application.

(4) Within 90 days of final approval from Planning Commission, the applicant shall record the plat at the County Recorder of Deeds office and provide the City Planner a receipt of the recordation including the deed book and page number. Prior to recording the plat, five copies of the plat must be submitted to the City Planner for stamping and signing. Three sets will be returned to the applicant.

(5) Upon recordation of the plat, the applicant shall provide the Land Data Manager of the City a mylar copy of the plat including the deed book and page printed thereon.

(6) Failure to record the Plat within 90 days of Planning Commission approval will result in the approval being voided.

C. The site plan review by the Planning Commission shall be limited to those proposed developments enumerated by this chapter and to those proposed developments that require a site plan review as determined by the (DELETE) ~~Code Official~~ (ADD) City Planner. No other site plans shall be considered by the Planning Commission for review.

(ADD) D. Prior to Planning Commission holding a public hearing to review the application for the site plan, the City Engineer shall provide a copy of the signed Subdivision Agreement to the City Planner.

§ 230-57. Planning and zoning fees.

Planning and zoning fees shall be set by resolution by City Council and maintained by the City Clerk.

Planning and zoning fees shall be as follows:

A. Site plan: \$700.

(DELETE) B. Subdivision:

~~(1) Preliminary and minor:~~

~~(a) Minor, residential, noncommercial/industrial: \$300, plus \$50 per unit.~~

~~(b) Minor, small commercial/industrial: \$500, plus \$100 per lot. Commercial shall also include land development firms, such as might be involved with residential housing, and any other group as may be noted or determined by the Planning Official.~~

~~(c) Major, residential, large commercial/industrial: \$1,000 plus \$10 per unit. Commercial shall also include land development firms, such as might be involved with residential housing, and any other group as may be noted or determined by the Planning Official.~~

~~(2) Final:~~

~~(a) Major, residential, large commercial/industrial: \$1,000 plus \$10 per unit. Commercial shall also include land~~

development firms, such as might be involved with residential housing, and any other group as may be noted or determined by the Planning Official.

(ADD) B. Subdivision.

- (1) Minor residential: \$300 plus \$50 per unit
- (2) Minor commercial or industrial, less than four acres: \$500 plus \$100 per lot
- (3) Major residential: \$1,000 plus \$10 per unit
- (4) Major commercial or industrial, in excess of four acres: \$1,000 plus \$100 per lot

(DELETE) C. Conditional use

- ~~(1) Residential, small commercial/industrial (one acre or less): \$700.~~
- ~~(2) Commercial (includes major residential developments): \$700.~~

(ADD) C. Conditional Use: \$700

(ADD) (1) Amendment to a Conditional Use: \$700

D. Variance/Board of Adjustment hearing:

- (1) Residential: \$300.
- (2) Commercial/industrial: \$1,000.

E. Rezoning: \$1,000, plus \$100 per acre.

F. Commercial maintenance agreement: \$500.

G. Interpretations of Subdivision or Zoning Code: \$300.

H. Application resubmission or rescheduling fee (required with each resubmission as a result of a revised design or a request for change in public hearing date): \$100.

I. ~~Engineering review~~ (ADD) Project management and infrastructure inspection fee: Four percent of any infrastructure improvement construction costs to include stormwater management, drainage, sanitary sewer and water systems, roads, curb, gutter and sidewalks, and other related systems shall be paid by the owner/developer.

J. Any constructions fees (i.e., grading, curbing, gutter, subbase, traveling surface, sidewalks, etc.) incurred by the City relative to the development of any property shall be paid by the owner/developer.

K. Annexation.

(DELETE) (1) Residential: \$2,500, plus \$100 per acre in excess of five acres (restricted to residential use).

~~(2) Residential: \$350 (less than one acre, restricted to residential use).~~

~~(3) Commercial: \$2,500, plus \$500 per acre.~~

(ADD) (1) Residential, less than one acre: \$350

(2) Residential, one acre to five acres: \$2,500

(3) Residential, in excess of five acres: \$2,500 plus \$100 per acre

(4) Commercial: \$2,500 plus \$500 per acre

L. Zoning inspection.

(1) Proposed use: \$200.

(2) Violation of use: \$200 for first visit; \$500 for each subsequent visit.

M. (DELETE) Utility agreement (ADD) Subdivision Agreement: \$2,500 per agreement.

N. Subdivision and Specifications Manual: \$30.

O. Zoning Code Manual: \$30.

(ADD) P. Alley or Street Closing Petition: \$300.

(ADD) Q. Engineering Review Fees:

(1) Preliminary Major Subdivision: \$500.

(2) Final Major Subdivision: \$1500.

(3) Final Minor Subdivision: \$500.

(4) Final Site Plan, 0 to 5000 square foot building: \$250.

(5) Final Site Plan, over 5000 square foot building, add \$250 for each additional 5000 sq.

(6) Sewage Pump Station: \$1500.

(7) Revisions: \$100/sheet per revision.

§ 230-61. Effect of application; loss of status; extensions.

A. Every (ADD) zoning application, when approved by the City Council (ADD) or Planning Commission either as

submitted originally or as (DELETE) ~~submitted or~~ resubmitted in modified form, shall constitute an agreement by the applicant that such improvement shall be made, completed and operated as shown on the plan as part of the project in accordance with the provisions of the particular zoning district (ADD) *within one year of said approval.* (DELETE) ~~granted and that the~~ (ADD) Any area which has been rezoned by the City Council shall lose that status and revert to its former zoning classification in the occurrence of any of the following events:

- (1) If construction of approved buildings and improvements shall not be substantially undertaken within one year of the zoning change or within such additional time as may be authorized by the City Council.
- (2) If, as a result of voluntary sale or conveyance or any other transfer of ownership whatsoever, the area shall cease to be held, in its entirety, in single or common ownership.

B. The City Council may, at its option, grant an extension of any approved zoning application that may have expired, provided that the applicant can show good reason and justification for such an extension.

Section 3: Dates

Planning Commission Review: August 19, 2008

Projected Adoption Date: August 25, 2008

Projected Effective Date: September 4, 2008

SECTION 230-57 OF THE CITY OF MILFORD ZONING CODE PREVIOUSLY ESTABLISHED PLANNING & ZONING FEES; ORDINANCE 2008-13 AUTHORIZES CITY COUNCIL, THROUGH RESOLUTION, TO ESTABLISH ALL FUTURE PLANNING & ZONING FEES. PLANNING AND ZONING FEES

WHEREAS, the City of Milford Planning Department needs to comprehensively update its existing land development application fee schedule; and

WHEREAS, the City Council wants fees for required land development applications and associated documents to keep pace with inflation, personnel, processing, and inspection requirements due to application and project complexities, and to maintain effective, quality and responsible service.

NOW, THEREFORE, IT IS HEREBY RESOLVED by the Mayor and Council of the City of Milford on _____, 2008, that the City of Milford Planning and Zoning Fee Schedule be revised as reflected in the Proposed Fee Schedule and

BE IT FURTHER RESOLVED that the revised fee schedule shall be effective _____, 2008.

Planning and zoning fees effective _____:

- A. Site plan: \$700.
- B. Subdivision.
 - (1) Minor residential: \$300 plus \$50 per unit
 - (2) Minor commercial or industrial, less than four acres: \$500 plus \$100 per lot
 - (3) Major residential: \$1,000 plus \$10 per unit
 - (4) Major commercial or industrial, in excess of four acres: \$1,000 plus \$100 per lot
- C. Conditional Use: \$700
 - (1) Amendment to a Conditional Use: \$700
- D. Variance/Board of Adjustment hearing:
 - (1) Residential: \$300.
 - (2) Commercial/industrial: \$1,000.
- E. Rezoning: \$1,000, plus \$100 per acre.
- F. Commercial maintenance agreement: \$500.
- G. Interpretations of Subdivision or Zoning Code: \$300.
- H. Application resubmission or rescheduling fee (required with each resubmission as a result of a revised design or a request for change in public hearing date): \$100.
- I. Project management and infrastructure inspection fee: Four percent of any infrastructure

improvement construction costs to include stormwater management, drainage, sanitary sewer and water systems, roads, curb, gutter and sidewalks, and other related systems shall be paid by the owner/developer.

J. Any constructions fees (i.e., grading, curbing, gutter, subbase, traveling surface, sidewalks, etc.) incurred by the City relative to the development of any property shall be paid by the owner/developer.

K. Annexation.

- (1) Residential, less than one acre: \$350
- (2) Residential, one acre to five acres: \$2,500
- (3) Residential, in excess of five acres: \$2,500 plus \$100 per acre
- (4) Commercial: \$2,500 plus \$500 per acre

L. Zoning inspection.

- (1) Proposed use: \$200.
- (2) Violation of use: \$200 for first visit; \$500 for each subsequent visit.

M. Subdivision Agreement: \$2,500 per agreement.

N. Subdivision and Specifications Manual: \$30.

O. Zoning Code Manual: \$30.

P. Alley or Street Closing Petition: \$300.

Q. Engineering Review Fees:

- (1) Preliminary Major Subdivision: \$500.
- (2) Final Major Subdivision: \$1500.
- (3) Final Minor Subdivision: \$500.
- (4) Final Site Plan, 0 to 5,000 square foot building: \$250.
- (5) Final Site Plan, over 5,000 square foot building, add \$250 for each additional 5,000 square feet
- (6) Sewage Pump Station: \$1500.
- (7) Revisions: \$100/sheet per revision.

City Planner Norris then reviewed the proposed changes in this ordinance. Planning and zoning fees will now be set by a resolution adopted by council.

Mr. Spillane said he has a number of changes to this ordinance as well. Mr. Norris advised this will follow the same schedule as the previous ordinance and any proposals need to be presented in time for review by the planning commission. Public hearings are scheduled before the planning commission on August 19th and council on August 25th.

Mr. Spillane feels that council has made a number of ordinance changes since he was elected. He asked if it is possible to start making changes to the entire code instead of waiting until we have a problem. He feels the charter needs to be changed and suggests a couple of people start working on this as soon as possible.

Mayor Marabello feels it is a good idea and asked for Mr. Willard's opinion. Mr. Willard agrees that changes are needed and as city solicitor, he could spend 40 hours a week working on charter changes. There is already one pending amendment to the charter that needs to be incorporated. In addition, the city clerk has numerous changes she is proposing.

Mr. Spillane wants this process started as quickly as possible. Mr. Workman agrees noting everyone is aware there are a number of changes needed to the charter as has been discussed numerous times. However, when it comes to code changes, he feels our employees need to be involved because they are the experts in these areas and does not believe council is qualified to address those amendments. For example, when the subdivision code is being reviewed, our city engineer and city planner are the experts and should be the ones making those decisions or recommendations because that is their area of expertise.

Mr. Baird explained that there are two distinct issues. One is the city charter which outlines the city's responsibilities and how it is organized. That is the area Mr. Willard agreed needed to be changed and is the top priority. He added that any changes to the charter require general assembly approval.

The second matter is the specific ordinances and chapters within the city code. As Mr. Willard indicated, there is a great deal of time that could be utilized to update each of those ordinances. Normally, those type issues are addressed through local ordinances that council is asked to amend on a regular basis.

He wants to make sure council is not mixing the two issues.

Mr. Spillane understands they are two different matters but wants this process started on as soon as possible. He feels we should start on one and when it is completed, we can begin working on the other one.

The mayor said he will sit down with Mr. Baird and will make a decision about appointing a committee to address the changes.

St. John's Church-Oktoberfest Requests/Street Closures and Beer Booth

Oktoberfest Chair Bonnie DeMar submitted a letter requesting permission for St. John's Catholic Church to block off a portion of Seabury Avenue and have a beer booth at their 18th Annual Oktoberfest on October 3 and 4, 2008 and October 5, 2008, if needed as a rain date. They have applied for an alcohol permit through the State of Delaware.

When asked if there was any opposition, Mr. Starling said he is opposed and recalled this is voted on every year, but he cannot have it on record that council was unanimous in allowing the church to sell beer. Mr. Spillane said he is in agreement with Mr. Starling and agrees that beer should not be sold at this event. Mayor Marabello explained the beer is sold in an area cordoned off from the other events. Mr. Spillane understands but reiterated he still does not agree with it.

Mr. Workman explained that they are still required to obtain a permit from the state. Mr. Willard advised that the city does not have jurisdiction over the sale of alcohol which is through ABCC (Alcohol Beverage Control Commission). Though council cannot approve the sale of alcohol, that would not stop them from applying with the ABCC and agrees with Mr. Workman.

Chief Hudson confirmed there has not been any previous problems related to the alcohol-related sales at this event.

Mr. Ambrose stated this event has been held the past eighteen years without any problems. Mr. Starling understands but only wants it on record that council did not unanimously vote in favor of the sale of alcohol which he is against. In the past, there has been a roll call vote which is what he is asking the mayor to do.

Mr. Brooks pointed out that the state alcohol beverage control commission has jurisdiction over this and they are asking for council's permission to close the street off in order to have the Oktoberfest.

Mr. Crouch moved for approval of the request to close a portion of Seabury Avenue and allow a beer booth, seconded by Mr. Ambrose. Motion carried by the following 4-2 vote:

Yes-Ambrose, Workman, Crouch, Brooks

No-Spillane, Starling

Mr. Spillane said he would vote yes if they did not serve alcohol or beer but he is voting no because they are serving beer.

Mr. Workman votes yes because they have held this festival for the past eighteen years which appears to be well controlled and without problems.

Mr. Crouch votes yes noting this has been a tradition in the community for the past eighteen years and there has not been any police problems in addition the Oktoberfest being a large fundraiser for that church.

Mayor Marabello announced the motion carries by a 4-2 vote.

Purchase of Advanced Processing & Imaging Contract

Mr. Baird advised this proposal is for an imaging system to assist the city in its records retention. This item was budgeted under the IT Department's document imaging capital program. Because the proposal came in at \$98,000, the additional \$23,000 will be needed to be taken from the City Manager/City Clerk's Capital Budget allocated for administrative records management.

This allows for imaging and production of historical records electronically in corporation with the HTE software. Once this information is in electronic format and has been put in place at the staff level, a portion of those documents will become available to the public on an on-line basis.

This moves our records management into an electronic format thereby reducing our long term storage needs. This is an accepted technology today in all levels of government and it is Mr. Baird's recommendation to accept the API proposal.

When asked how much was budgeted for this project, Mr. Baird explained \$75,000 was approved. The additional \$23,000 will be taken from the city clerk's capital budget of \$50,000 last fiscal year and \$50,000 this year. The city clerk has some proposals that were carried over from last year though he believes both projects should fall within the \$175,000 total.

Mr. Ambrose moved for approval of the API proposal, seconded by Mr. Workman.

Mr. Spillane then asked how soon after we purchase the software will this information become available on the internet for the public. Mr. Baird expects it will not be available for at least twelve months as it will take a couple of months to put the old data into the system. After that, we will be working out the kinks at the staff level while determining what is public information and what is not.

Mr. Spillane also asked if it will be available a little at a time or available on the internet all at once. Mr. Baird said most likely it will be done a little at a time so it is more manageable. It will be implemented through the various city departments which will take some time to complete.

Motion then carried by unanimous roll call vote.

Purchase of Cab Tractor & Flex Mower

Mr. Baird referred to the proposal from Rathell Farm Equipment Company which the city piggybacked on a state purchasing contract. Though the item is over \$30,000, it meets the city bidding requirements because of the state contract. He added it comes in under the \$47,000 budgeted for this equipment through the Parks and Recreation Department.

He noted this is a new piece of equipment to be used for additional land maintenance specifically at the new sports complex in Independence Commons in addition to other areas of town.

Mr. Crouch moved to authorize the purchase under state contract from Rathell Farm Equipment Company, Incorporated in the amount of \$44,975 for a T2420 New Holland Tractor and 412 Flex Mower, seconded by Mr. Starling.

Mr. Crouch again questioned why this is being presented to council when it was approved as part of the budget. Mayor Marabello feels it is because it requires council approval; Mr. Baird agrees with Mr. Crouch's approach though any change must be a decision of council. He feels that sometimes it is better to have the legislative body review the bidding process. Mr. Crouch agrees but noted it was already approved as part of the budget; Mr. Ambrose agrees that if it comes in under budget he does not feel council needs to re-approve an item.

Mr. Spillane wants those things to come back before council so everyone else is aware of them and that we are not doing anything wrong.

Mr. Workman feels if it is a budgeted item and comes in under budget, it does not need to come back before council. However, a copy of the purchase could be included in the packet so council is aware the purchase was made though no

additional action is needed by council if it comes in under budget.

Mr. Willard does not feel the charter is clear on this matter. Mayor Marabello will follow up to prevent this from occurring over and over again.

Motion carried by unanimous roll call vote.

FY 2007-2008 Budget Amendment/McColley Application Refund

Mayor Marabello advised this involves a transfer of funds to take care of the McColley's refund. He recalled there were two applications from Mr. McColley and it was agreed to give them a refund on the first, but to make it clean, council decided to credit it against the second application. In the meantime, the McColleys paid their second application fee in full and this will pay them back approximately \$6,700.

Mr. Spillane asked if the application fees are put into an account until the time it is approved. In that way, money does not have to be transferred into different accounts because the money is already there. Mr. Baird explained it does not go into an escrow account but goes into the general fund against the appropriate line item expenses. The revenues are there to offset those expenses as they come in.

The city manager added that in this case, it occurred in the previous fiscal year which is why the budget adjustment is being requested.

Mr. Crouch moved for approval of the FY2007-08 Budget Amendment by increasing the Cable Revenue Account #101-0000-359-10-55 by \$5,551 and transferring \$5,551 into Discretionary Expense Account #101-1010-413-67-11 to refund Lynn and Karen McColley, seconded by Mr. Brooks. Motion carried with no one opposed.

EXECUTIVE SESSION

Mr. Workman made a motion to go into Executive Session reference litigation, seconded by Mr. Crouch. Motion carried.

Mayor Marabello recessed the Council Meeting at 9:35 p.m. to go into Executive Session to conduct a discussion regarding litigation.

Return to Open Session

City council returned to Open Session at 10:00 p.m.

No action was taken as a result of the discussion that occurred in the Executive Session.

ADJOURN

Mr. Ambrose moved to adjourn the regular session of City Council, seconded by Mr. Brooks. Motion carried.

The Council Meeting adjourned at 10:00 p.m.

Respectfully submitted,



Terri K. Hudson, CMC
City Clerk

DEMEC

Delaware Municipal Electric Corporation



Power Supply Market Update

Power Market Moves Higher on Fuel

... and seems to stay there!?

July 23, 2008

DEMEC



Current Power Supply Strategy:

- ◆ **Continue portfolio component purchasing**
- ◆ **Take majority of energy from bilateral purchases**
 - **Purchasing of a fixed schedule of energy from the lowest cost providers**
 - **Balance our energy requirements in the PJM Day-Ahead and Real-Time market**
 - **Contract for energy on a rolling basis for one to three years forward**
 - **Remain flexible to purchase forward fixed energy when the prices are at their lowest**
- ◆ **Learn to live with RPM Capacity Market**
 - **Use Beasley Generation as a Capacity Offset, possible expansion?**
- ◆ **Purchase Transmission & Ancillary Services from PJM Market**
- ◆ **Manage congestion costs:**
 - **Use FTR Portfolio as effective Congestion Hedge**
 - **Use DEMEC's Generation to suppress DPL South Congestion**
- ◆ **Utilize ACES Power Marketing for forecasting, scheduling and energy risk management**
- ◆ **Expedite Search for New Long Term Energy Contract for Base**

DEMEC



Factors affecting Current Power Market:

Fuel Prices- Trending Higher with World Oil

75% run-up in 60 days, ignores fundamentals

As of today, a fall-off. Is it a trend?

Weather – “Average Summer”, Hurricanes

Congestion - West Hub and DEMEC – Much Higher

Transmission Outages – No major expected

**Generation Availability – 95% plus, but insufficient
DPL Zone Generation, especially DPL South**

DEMEC



Precursors of higher market prices:

- **Crude Oil increases 100+% over last year**
- **Natural Gas increases 60% over last year**
- **Coal Prices increasing significantly**
- **Forward Congestion Costs (ARR/FTR prices) 20+% higher than last year, and rising as natural gas prices continue to rise**
- **We have not been able to secure fixed-price energy delivered to DEMEC Aggregate as we had in 2007**
- **Capacity Prices increased 5.5% since 2007, expected to increase further through 2009, then fall off in 2011-2012**

DEMEC



What Others Have Done:

- **ODEC passing 4.5% PPA increase to Members**
- **Delaware Electric Coop:**
 - increases prices 5% in April, 2008 + Continuing Series of rate increases
- **DPL SOS Auction energy prices increases 15% over last year, but actual increases:**
 - 2.9% total effective 1/1/2008 and 3/1/2008
 - We expect more
- **Dover increasing Approx 7%**
- **Other utility rates creeping up throughout PJM**

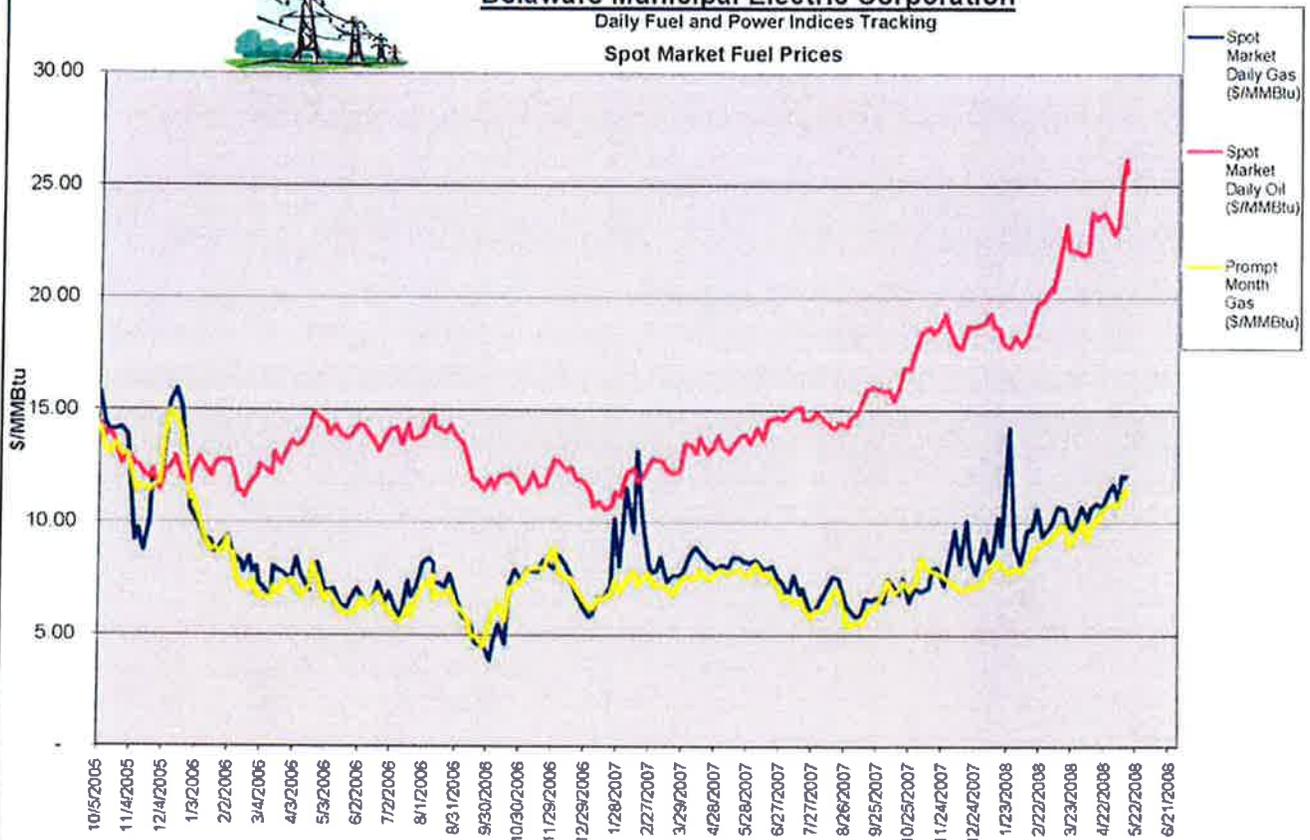
June 21, 2008



Delaware Municipal Electric Corporation

Daily Fuel and Power Indices Tracking

Spot Market Fuel Prices



July 23, 2008

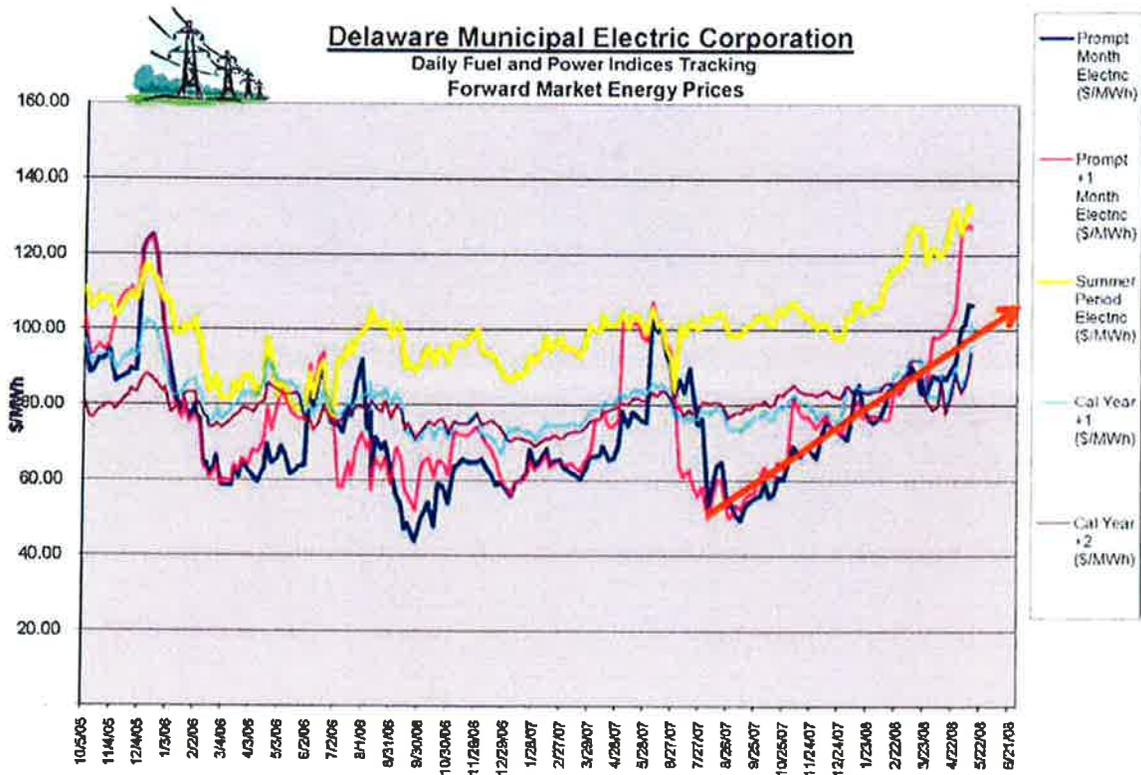
Delaware Municipal Electric Corporation

Daily Fuel and Power Indices Tracking

Spot Market Fuel Prices



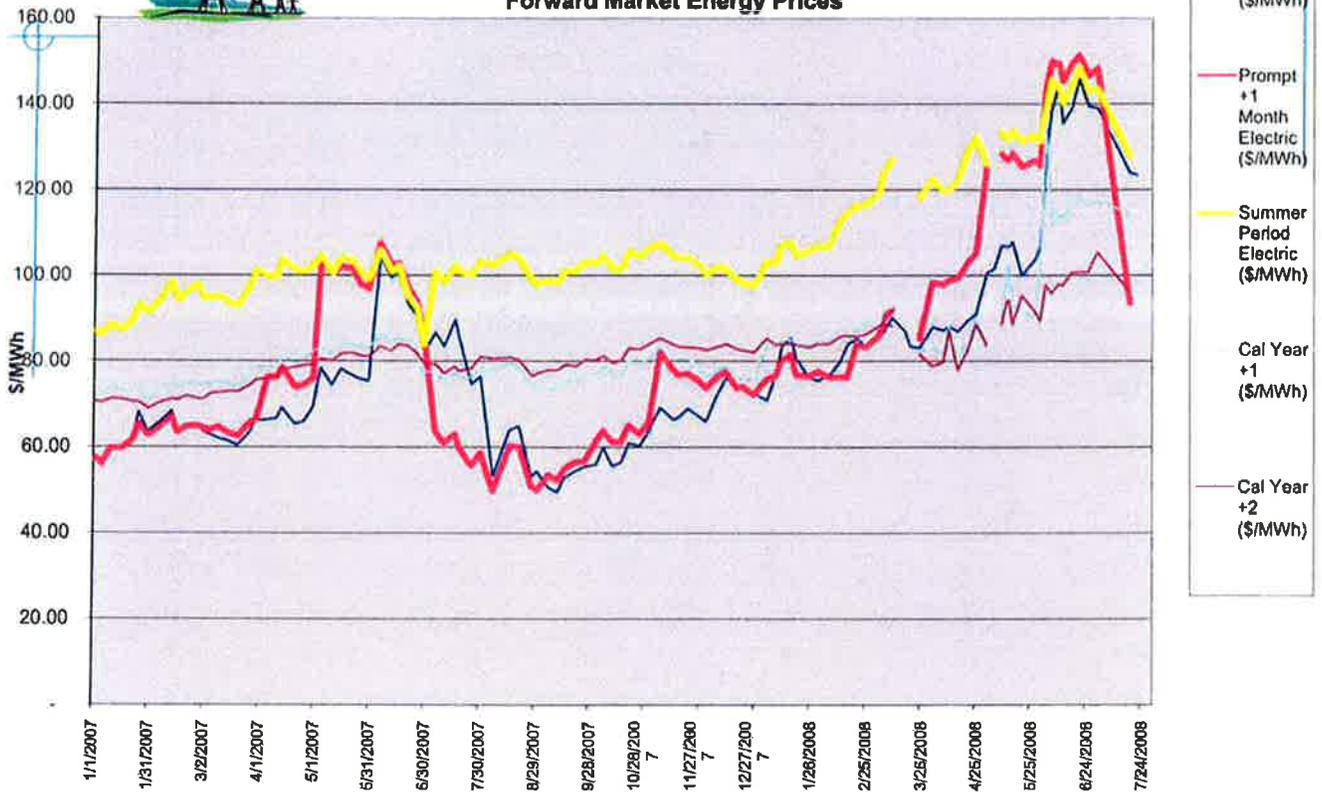
June 21, 2008



July 23, 2008



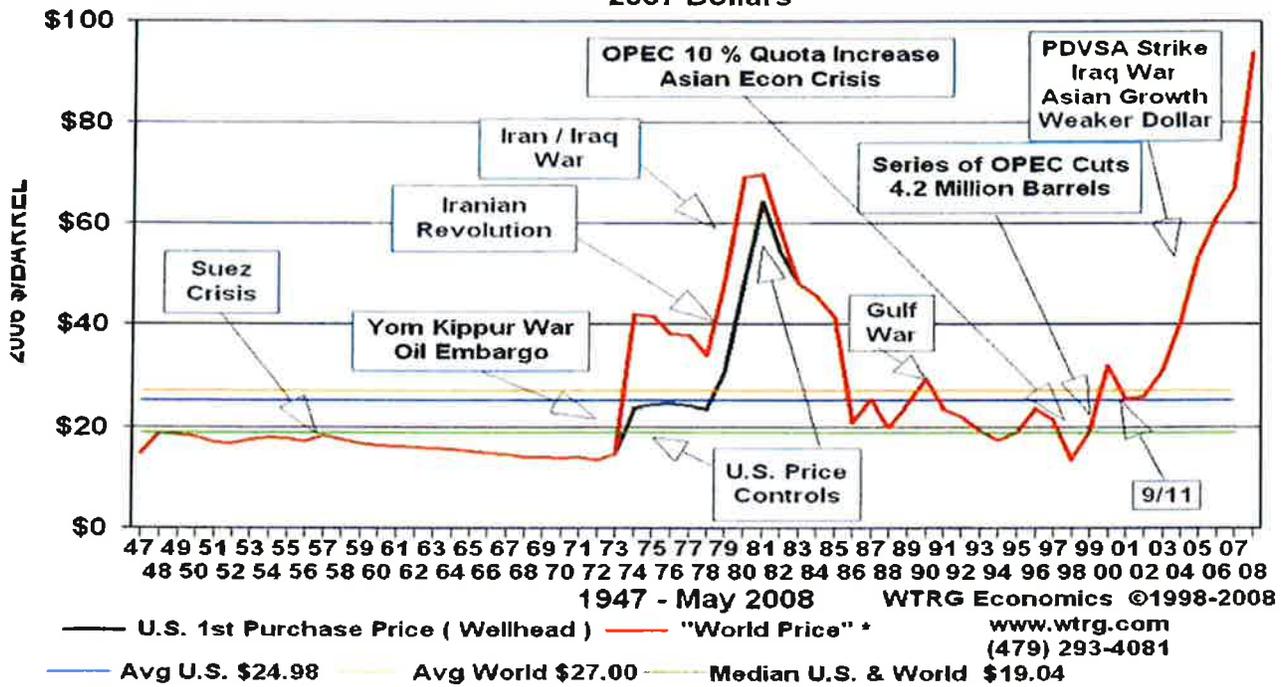
Delaware Municipal Electric Corporation
Daily Fuel and Power Indices Tracking
Forward Market Energy Prices



DEMEC



Crude Oil Prices
2007 Dollars



DEMEC



RPM Capacity Auction Costs to DEMEC

Actual Auction Results through March, 2008
Projected Cost Impact on DEMEC7 Load

Calendar Year	2007	2008	2009	2010	2011
Generator Revenues	\$2,079,923.27	\$2,194,319.05	\$2,655,126.06	\$2,475,541.33	\$1,927,900.00
Load Costs	\$10,065,000.00	\$10,618,575.00	\$12,848,475.75	\$11,979,443.57	\$10,549,232.00
Net Cost to Load	\$7,985,076.73	\$8,424,255.95	\$12,492,460.03	\$9,503,902.24	\$8,621,332.00
Cost to Load \$\$/mWh	\$ 9.15	\$ 9.65	\$ 11.68	\$ 10.89	\$ 6.87
Annual Escalation	0.0%	5.5%	21.0%	-6.8%	-36.9%
Cumulative Escalation	0.0%	5.5%	26.5%	19.7%	-17.2%

DEMEC

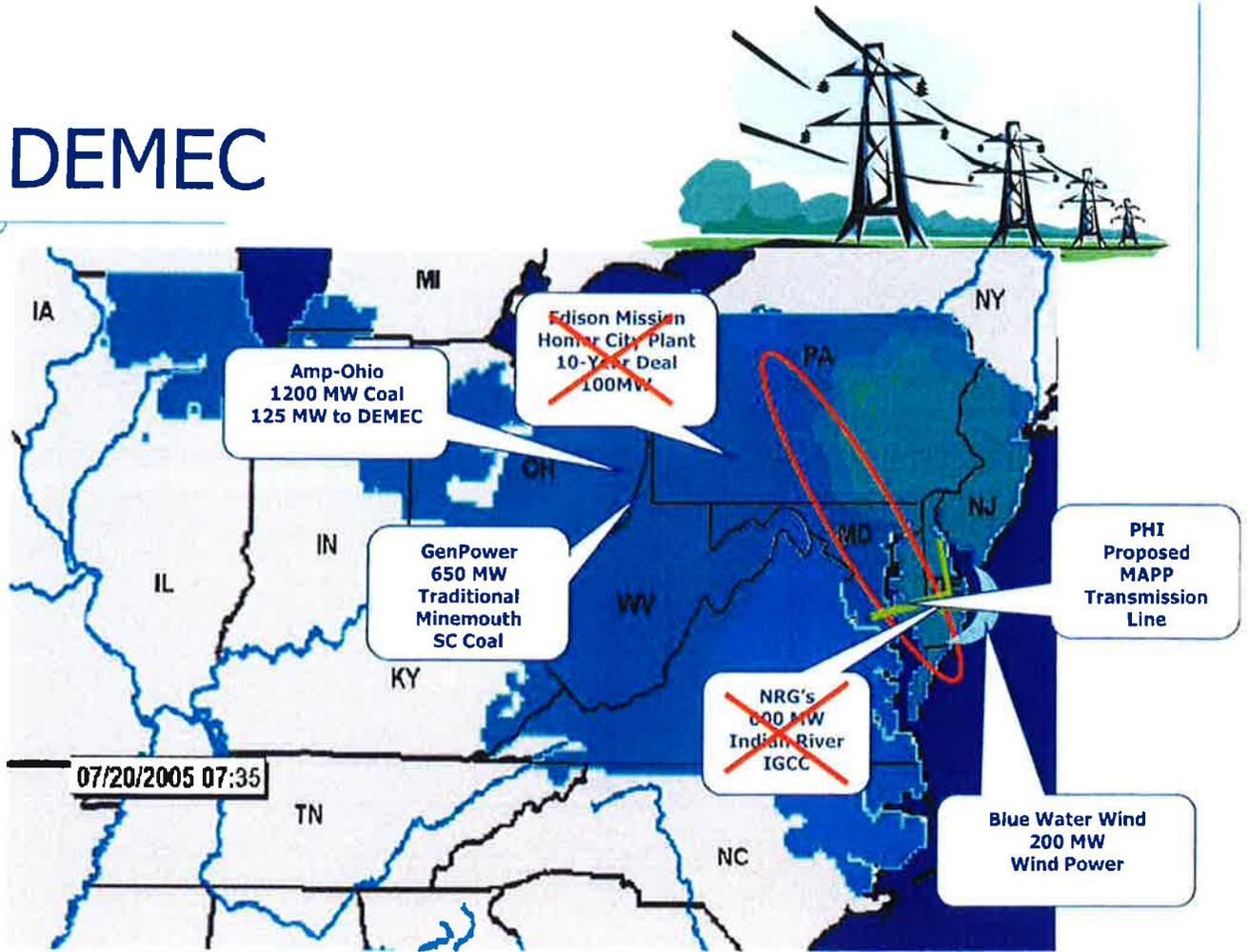


Why Build More Generation?

Point-in-Time Prices
July 22, 2008 @ 1500 Hours

AREA	\$\$/MWh	Percentage
PJM Wide (13 States)	191.22	---
DPL Zone-Wide (2 States)	235.43	23%
DPL South	241.55	26%
DEMEC Aggregate	231.38	21%
Beasley Generation Cost	136.81	-28%

DEMEC



MILFORD CITY COUNCIL
MINUTES OF MEETING
July 28, 2008

The City Council of Milford met in Workshop Session on Monday, July 28, 2008 in the Meeting Room of the Delaware Rural Water Association Facility at 210 Vickers Drive, Milford, Delaware.

PRESIDING: Honorable Mayor Daniel Marabello

IN ATTENDANCE: Councilpersons Irvin Ambrose, Michael Spillane, John Workman, Clifford Crouch, Owen Brooks, Jr. and James Starling, Sr.

STAFF: City Manager David Baird, Police Chief Keith Hudson and City Clerk/Recorder Terri Hudson

COUNSEL: City Solicitor Timothy Willard

Mayor Marabello convened the Workshop Session at 7:20 p.m.

SPCA Animal Control Program

Chief Hudson introduced Kent County SPCA Representatives Executive Director Murrey Goldthwaite and Community Outreach Manager Mary Ann D'Amato. Chief Hudson advised there have been an increased number of feral cats in the city. As a result, the SPCA has a plan they would like to initiate in the city to help with this situation. He also informed council the City of Milford contracts with Kent County SPCA for animal control.

Director Goldthwaite then introduced himself stating he is the Executive Director for Kent County SPCA and Delaware Animal Care Control. Mr. Goldthwaite explained the program addresses feral cat situations but not domestic cats. He then asked Mary Ann D'Amato to summarize the project.

Ms. D'Amato then introduced Donna Gordon from the Town of Milton. Ms. D'Amato said one of their successful programs was in Milton who was experiencing similar problems. When their police chief contacted them, they went in and organized the community after organizing a number of the beach towns. A letter of support from Milton Police Chief William Phillips was also submitted.

Ms. D'Amato explained that cats in general are a major issue in the State of Delaware. There have been a number of issues that have come up involving cruelty against them. There have been rescuer organizations established to help because it often comes to a situation between the cat killers versus the cat rescuers. They wanted to move beyond that with a partnership with the SPCA. This partnership with the SPCA provides education not only for their own animal control people but for colony caretakers. Instead of just having people feeding cats and trying to protect them or bring them into their houses where they end up with hoarding situations, it allows them to become registered colony caretakers that are monitored by the SPCA. This is a community and SPCA-SPONSORED program. She noted there is no financial support required by the city for this program.

Ms. D'Amato explained that besides the successful program in Milton, there are successful programs in Lewes, Bethany Beach, Dewey Beach and the Pot Nets communities. She explained the old way of removing cats from these environments was by poisoning, shooting, drowning, etc. Instead, this is a humane approach that has been extremely successful. She hopes council will allow them to put this program in place in Milford.

Donna Gordon then addressed council stating she is president of the Milton Cat Snippers whose motto is 'snip them all'. She agrees there are too many cats but the question is how to humanely solve the program. One of the things she learned is the reason cat killing does not work is because the rest of the cats that have not been trapped increase their breeding cycles to replace the missing cats. The entire colony of cats cannot be trapped at one time. If they are not brought back, the other cats manage to survive and increase their breeding so that the same colony is back and larger. They 'trap, neuter and release'. They find the people feeding the cats, talk to them and advise them not to leave food outside. She explained that if you feed them, they learn the times this occur and always return to eat. They are asked to bring the food in to discourage additional cats from doing this.

Ms. Gordon explained the second part is neutering. They are trapped using a humane trap, taken and then spade or neutered. One of their ear tips is clipped so that in the future, you are able to see right away that cat has been spade or neutered. This is part of colony management. The cats are then returned to the owner or keeper who continues to feed them. Spade and neutering solves some very important problems like fighting and screeching when they are in heat. They do not spray near as much and are much calmer and live out their life in a humane fashion.

Milton's town council allowed six months to see if the program would help. After six months, they learned it was very successful and allotted another six months. The program is now in its fourth year and they have spade or neutered over 500 cats. They are kept overnight and released the next day. They go back to their colonies and the rest of the cats do not increase their breeding cycle. The ones that do not have the clipped ears are then caught and spade or neutered.

One colony of 50 cats was reduced to 12 cats over a two-year period and has now been reduced to 6 cats. The cats live out their lives and the problem eventually goes away.

The Milton Police Chief who was originally opposed to this program was totally convinced it worked after six months. He wrote a letter of support to Pet Smart to help them obtain grants. They raise money through a variety of fund raisers. She concluded by saying this program has had a tremendous impact in Milton.

Mr. Goldthwaite stated the SPCA receives a large number of stray cat complaints in Milford. Last year they removed 321 cats from a couple of areas where they were fed by local residents. He said this plan would establish the care of the cats but would also make the citizens responsible for taking care of the cats.

Mr. Goldthwaite submitted a draft of the feral cat care program which puts the responsibility on the caretaker. The SPCA helps the caretaker and provides them with tracks and medical services. Ultimately, the caretaker will be responsible to ensure the cats are taken care of.

Mr. Goldthwaite noted that in reviewing this situation with Mayor Marabello and Chief Hudson earlier this month, there are three established colonies in the city. A total of 24 cats was removed from behind the A.I. Dupont Clinic where some patients had been bitten and scratched by the cats.

Registering the colonies and caretakers allows them to monitor them. A cat is brought in and microchipped, spade or neutered and ear tipped which makes it noticeable from a distance. If the cat is trapped, they can trace the microchip to the colony and caretaker. If it becomes a nuisance and the caretakers do not take care of the colonies, they remove the colonies and try to place them with other rescue groups. The other aspect is to get the kittens at an earlier age when they can be resocialized and more apt to be adopted. Currently, they grow up and reproduce.

When asked for Chief Hudson's recommendation, he feels it is a win/win situation for the animals and city particularly considering the fact there is no cost to the city.

When Mayor Marabello asked if the program should be tried for six months, Mr. Crouch stated that a report on their success can be given in six months, but he recommends they start the program right away with no time limit.

Mr. Baird said that council is not acting on the proposed ordinance, but in agreement, he and Chief Hudson will need some direction on whether to move with the ordinance amendment or whether to postpone any formal action for the next six months.

Mr. Workman confirmed the caregivers are responsible for the cats when they return to their colony. Mr. Goldthwaite explained the caregivers are actually trained; Mr. Workman stated that if they feel they cannot handle it, they call the SPCA to remove the cats. Mr. Goldthwaite explained that they work with the caregivers to resolve the problem but the ultimate result would be to remove them. When they are removed, they work with other rescue groups. Being in the middle of cat season at the present time, most of the places are full so they would have to be destroyed or put up for adoption.

When asked how the cats being released would affect the animal ordinance, Mr. Goldthwaite said that is the reason they

are proposing the ordinance amendment to allow a different classification for a feral cat versus a domestic cat. Mr. Willard has reviewed the proposal. However, if the program is approved, the ordinance will need to be adopted so the feral cats are addressed. He does not think it will be enforceable otherwise.

Mr. Ambrose prefers for the program to be put in place while the ordinance is being prepared. Mr. Willard said there are provisions of the ordinance with regard to penalties, requirements for shelters, etc. that are not enforceable until the ordinance is adopted.

Mr. Goldthwaite said they can start working with the group and bringing the cats in. Mr. Ambrose agrees that education is the key. He does not want to delay this because the longer we delay the more cats we will end up with. This kind of program is desperately needed in the first ward because he constantly receives related complaints. He agrees with Chief Hudson that this program makes a lot of sense and needs to be started.

Ms. D'Amato then stated the Town of Lewes was the first program and when they went in, the town did not allow for the cats to be returned. They would only allow for the cats to be trapped and neutered but they had to be removed. That created an additional burden. She agrees the ordinance is an important aspect but the education component is the first part. There is a school-based education piece that has to be put in place along with community-based education. Volunteers have to be recruited to become part of the group. There are also media responsibilities. She said they can begin educating the public which is primary while the ordinance is being addressed.

Mr. Spillane said he gets complaints that people are not taking care of the cats but feed them. They stink and smell and asked if the cats should all be removed.

Ms. D'Amato said the good part of this program is this is an animal control partnership which provides enforcement. If there are additional problems, the animal control officers can still go out and mediate the situation with the right to remove the cats. If they are spade or neutered, there is not much of an odor issue. She added that people can be educated on how to keep them in appropriate areas and out of places they should not be. This is not a program that is forcing anyone to put up with cats in their neighborhoods. If they are not allowed or welcomed, they will not be there. However, the truth is these cats are there. Animal control or cruelty investigators will tell you this is the beginning of people hoarding and people will either bring them in their house or stash them in their garages. Eventually there will one hundred cats in a house. That is because they are afraid and do not trust anyone and certainly do not trust animal control. This program is to bridge everyone together so that everyone is working together because it is a community issue. This is a humane approach so children can become involved as well. Children love being involved in this program because they love animals and particularly being able to help them. They become part of helping the community raise money to help solve this problem. This will be the first pilot program that has a component of enforcement.

Mayor Marabello agrees we need to accept this program and have Mr. Goldthwaite come back with a report in six months. He asked Chief Hudson to get everything in place to proceed with the program.

DEMEC Power Supply Market Update/Patrick McCullar

City Manager Baird recalled the recent 5.9% electric rate increase noting this may be the first of a couple over the next few months. He asked Mr. McCullar to update council on the current market and the issues behind the decisions coming out of DEMEC which could impact Milford in the upcoming months.

Mr. McCullar introduced himself as President of Delaware Municipal Electric Corporation. He then presented council with a power point entitled Power Supply Market Update dated July 23, 2008 (see attached).

He advised that DEMEC is a joint action agency created in 1979 by seven municipal distribution utilities in the State of Delaware authorized under Delaware Code 22. They are a wholesale electric utility. It is their responsibility to either generate or purchase on the open market power supply for the seven municipal members. This involves 100% of the power supply for those seven members while providing partial power supply and renewable energy for all nine members. They provide regulatory representation for municipal utilities both in the State of Delaware and in Washington, D.C.

Mr. McCullar stated that as of January 1, 2004, DEMEC became a lone serving entity in the PJM power pool making them an authorized entity to transact business in the PJM pool.

He explained PJM is a regional power pool and an association of all electric utilities in the Mid Atlantic Region of the United States. They work together cooperatively to manage the generation and transmission of electricity over 13 states. PJM has grown over the last few years. When he was Chairman of PJM in 2005, it grew from 9 states to 13 states now stretching to Illinois. It is the second largest power pool in the world next to Japan.

The seven legacy members of DEMEC are Newark, Milford, Seaford, Smyrna, Middletown, New Castle and Clayton. Two other members--Dover and Lewes joined in the late 1990's. In 2005, the relative loads for the seven municipal utilities served was 234 megawatts of load.

Mr. McCullar reported the systems are growing rapidly. The policy in the State of Delaware for Economic Development channel most development to the municipals. Growth rates are anywhere from 2% to 7% a year with an occasion double digit increase. Smyrna grew 14% one year and New Castle grew 17% another year. As a comparison, we had 234 megawatts in 2005 and 240 megawatts in 2008. By 2010, they expect a load responsibility of 284 megawatts.

They are trying to meet the challenge of procuring a reliable and economic power supply to serve the rapidly growing demands in these communities for electric supply.

When talking about power supply and what is needed to put together full requirement service for municipal utility members, Mr. McCullar claimed energy is the main component. Of that, 1.2 million megawatt hours were supplied to members in 2007 which is expected to increase to 1.3 in 2008 with a capacity of 240 megawatts of summer peak demand. Under the PJM power pool, congestion management is a significant effort and expense.

He explained that DEMEC operates on an economic dispatched model. That means for each megawatt of demand in electricity received, we will call on the next cheapest generator to produce that megawatt. We have approximately 350 generation resources in PJM. If all things are equal and the next megawatt of demand from our customers comes on, we will call the next most efficient generator to come on. They keep calling them until the load is met. When the load drops, they start to turn generators off.

Mr. McCullar pointed out the unique thing about electricity as a commodity is you cannot store it. It has to be instantaneously created at the moment of demand. If you don't balance supply and demand, things start melting down or blowing out. Though it is a unique challenge, PJM does it in 15 second increments in order to meet supply and demand.

He explained that congestion managements come into play when the next most efficient generators can be called on. But if the transmission lines delivering that energy are incapable or insufficient to deliver it, a generator closer to the load is called on where a transmission line can obtain the needed additional electricity. Typically it will be out of merit dispatch which means the next closest generator is much more expensive to operate in that hour than the most efficient generator we would have called on, but for the transmission system not letting us use it.

Mr. McCullar explained that congestion management adds significant costs to supplying electricity particularly in places like the Delmarva Peninsula which is called a load pocket. A load pocket is where there is a significant demand for electricity but not very much local generation to meet that demand. That means the generation must be brought from a longer distance by transmission lines to serve that load. Congestion on the Delmarva Peninsula is historically high compared to other places in PJM. The transmission systems/wires that come onto the Delmarva Peninsula have not been sufficiently upgraded in the past thirty years to meet the tremendous growth in electric demand. We try to find ways to minimize the additional cost we pay on the Delmarva Peninsula compared to what someone pays in Pennsylvania, New Jersey or other areas not experiencing this congestion. That is done by buying financial transmission rights that hedge us against the cost that may occur in any given hour.

Mr. McCullar explained it is basically a right to deliver a megawatt of energy without any additional congestion costs. However, he said we do have to pay for those so it is a budget issue. We also supply the transmission service which is to deliver the generation from the sources of generation to the distribution substations of DEMEC's members which are

called syncs.

He stated there are two things with electricity--where is the source and where is the sync. The source is the generation and the sync is the community, the city, the industry that is using it. All the transmission service is provided by PJM and as a member, we have the right to network transmission service which means we do not have to tell PJM where we are getting it from or where we will take it to. We pay the same rate regardless of whether we get that generation from across the river in New Jersey or from Chicago.

The ancillary services are a catch-hall. He explained this is specific types of transmission and energy related services that balance voltage control and regulation, to name a few. DEMEC procures them either the market or from PJM. They are a small portion of the cost stream, but essential to reliable electric service.

Once it is delivered to your high voltage substation, your electric department delivers it to your businesses and your residences so everything works well. Metering, billing, infrastructure maintenance is an ongoing cost. Constant meter reading, meter replacement, transformer replacement, poles and wire maintenance are needed. Mr. McCullar added another charge is building for future growth and electric demand.

He noted that power supply purchasing is through generation or purchase from the market under contracts and varying links and terms. Right now the current contract term is June 1, 2008 through May 31, 2009. DEMEC is actively in the market seeking supplies for future periods from June 2009 and beyond. Currently, they are looking three years forward on main supply; they are also discussing new generators that will be coming on in the next few years of taking very long term positions for outtake from those generators. By long term, Mr. McCullar is referring to 20 or 30 years into the future for supply of those new resources being built.

The challenge is there are not many new resources being built which is one of the problems in the industry. The resources that generate that electricity have not grown anywhere near the same pace and are falling behind every day.

Some of the older ones resources have either retired or are preparing to retire because they are inefficient because of air permit regulations, emissions, etc. It will be uneconomic for them to stay in business. Therefore, we are losing ground every day.

The current power supply strategy that DEMEC pursues is to seek 90% of our energy in a fixed price position. That is a change from last year's policy which was a 70% hedge position. Last year's policy worked well which came in over \$2 million under budget. However, things have changed in terms of the market the policy needed to be adjusted. At the last board meeting it was discussed and the consensus was to seek at least a 90% position to hedge ourselves from the volatility we are now seeing in the electric markets.

Mr. McCullar explained that they purchased a fixed schedule of energy and will forecast the members' load requirements over the next 12-month period. There is a 20-year forecast though the further you go out it becomes less accurate. Therefore, they look at one to three years. Once that projection is made, he said we start purchasing in the market to fill that projected requirement from our customers. They go to the lowest cost providers and are constantly talking to people in the market. Presently, there are contracts with 14 counterparties who sell energy. Our energy requirement is balanced in 15-minute increments because it cannot be stored by DEMEC's engineer.

He stated we remain flexible to the market because of the very dynamic volatile market whose price goes up and down. The policy while shooting at 90% remains flexible to buy signals in the market. Usually we buy signals anytime the trend is up or the trend is down.

Mr. McCullar explained that capacity is the ability to create a megawatt at any given time. Capacity relates to generation resources and if you own a generation resource, you have the right to be paid for your capacity. If you are a buyer/user in the market, you have an obligation to buy capacity. You buy capacity equal to 1.15 times your peak load requirement. We have a 240-megawatt requirement so we are purchasing 250 megawatts of capacity. Capacity used to be an open market issue which could be purchased from anyone and was relatively cheap. Of the total cost supply, less than a dollar a megawatt hour was going toward capacity.

He said that ended in 2007 when PJM and the Federal Energy Regulatory Commission adopted the RPM capacity market. Suddenly, capacity went up 1300% in price. It is an option-based system that all the generators get the bid in. PJM clears the market administratively through an auction, now our previous bargain capacity that used to cost one dollar, now costs between nine and ten dollars a megawatt hour. That auction is conducted every year for forward years and we are now out to 2012. The capacity price has increased every year through 2010 and 2011, and in 2012 it actually fell off a little bit. If new resources come into the market, you would assume supply and demand would step in and the auction prices would start decreasing because of the competition. In 2012, it appears that is what is happening although the program is too young and currently is less than three years old to really know what the trend will be for future costs. But from the buyer's point of view, capacity has gotten more expensive which has made electricity supply more expensive.

Mr. McCullar said the way to beat that is to own generation. We own our Beasley 50-megawatt Power Station and we get paid capacity for that 50 megawatts. We do not have to buy that 50 megawatts on the market which is worth \$3 to \$4 million a year just in capacity payments alone.

He stated we utilize a number of consultants to assist in the purchasing strategy. Aces Power Marketing out of Indiana is an entity that was created by other public power utilities like ourselves. They do a lot of forecasting, scheduling and energy risk management for us.

He explained one of our other major goals is to expedite the search for more long term energy contracts for base load. Base load is the amount of energy used 24 hours a day 7 days a week which is about 100 megawatts every hour right now. They would like a long term contract for the 100 megawatts from an efficient generator that runs 24 hours a day 7 days a week. Today, wholesale electric prices have increased 107% since December of 2007.

Mr. McCullar recalled when the electric industry deregulation happened back in the 90's. It was advertised as creating competitive market that would drive down the price of electricity. That has been in effect for over ten years and has not worked at all. The demand for electricity is currently outpacing growth and supply, both in Delaware and the entire eastern United States. Oil and natural gas, two of the principal fuels for electric generation, have increased 53% and 72% since December of 2007. Coal is next in line as the third fuel. The demand for natural gas continues to go up which is the most expensive generation. Natural gas is being used as a fuel because of pollution control. It is much cleaner than coal and oil. The environmental regulation people will permit gas fire generation where they will not permit oil or coal fire generation. The location of the southern Delmarva Peninsula makes it very expensive and less reliable which is related to transmission issues.

Mr. McCullar then presented another map of PJM showing the eastern interface. He explained that is the point where cheap generation from western Ohio, West Virginia, Indiana and Kentucky, comes across into the east where there is a lot of demand for electricity. The 500 kV and 750 kV transmission lines pull that energy across from the cheap coal fire generation in the midwest into the east. The problem is the high voltage transmission system was built in the early 1970's and has not changed since. On the other hand, we have demanded a lot more electricity than we used in the 70's by a magnitude.

We have ended up with increasing demand and not much generation located on the east side of the interconnect because people do not want it built. People do not want a coal-fired generator in their towns in the eastern United States. However, there is a lot of generation being built on the west side of it. It generates at the price of \$24 a megawatt hour. DEMEC is currently buying energy on the market in the summertime peak at \$135 a megawatt hour. That is difference between the two sides and unfortunately, we are on the wrong side.

Mr. McCullar then presented a graph addressing fuel prices. The jagged line indicated a constant move since mid 2007, the trend has been in a steep upward climb. One line was the spot market for daily oil which has been the most volatile one. The price has been converted from a barrel to MMBtu because that equates to the price of electricity. That is up around \$25, \$26, \$27 an MMBtu which is very expensive. The yellow line showed the prompt month gas contract which is the price of gas for next month noting that is also very steep and actually peaks out at \$13.50 an MMBtu. We have been used to purchasing it at \$2.50 or \$3.00 an MMBtu. In more recent times, we have learned to live with \$5, \$6 and \$7 an MMBtu.

Mr. McCullar explained these price increases are all about demand of new generation resources that are burning natural gas. He said this translates into an update spot market fuel price as of July 31, 2008 and we see a trend beginning because it is coming down from the \$13.50. The graph has it down just above \$10.00 but yesterday it closed very close to \$9.00. That means these incredibly high energy prices are going to moderate if the trend continues.

He then presented a graph from June 21, 2008 showing the market price of energy skyrocketing. Mr. McCullar referred to the line representing the prompt month electric and the line representing the summer period electric. He said what is interesting is there is normally a large gap between the summer period electric and the prompt month. The two lines are converging on this graph and indicative of worries about the price of fuel in the domestic and world markets. Therefore, the prompt month is as expensive as is the summer period.

He then presented a more updated graph showing the prompt line taking a very steep dive. The star shown on the graph is as of business today and the prices being quoted in the mid to high 70's.

This is a trigger which causes DEMEC to be in the market buying forward. If the trend continues, levels out or continues to go down, they will buy more. They are currently buying for June 2009 and forward after filling the supply for the current year.

DEMEC's generation mix consists of the Warren Beasley 50 megawatts Power Plant in Smyrna which is a natural gas fire plant which is a very efficient, fast start, fast stop unit and can be turned on and off as needed. It also has dual fuel capability and can run on low sulfur oil as a backup if natural gas is not available. There are times in Delaware throughout the year when natural gas is not available. Delaware does also not have a robust transmission system for natural gas and it is not available just south of Milford. He said that has prevented them from building a new generation in the Milford-Seaford area.

Dover has three oil/gas fired generating units which are older units. Mr. McCullar sits on the Dover Energy Committee assisting them with how to replace those assets in the most efficient and economic way. Seaford and Lewes used to have peaking units. DNREC retired the Seaford units by regulation and Lewes chose to retire theirs because they were not efficient anymore.

The newest resource in Delaware is an agreement reached with Bluewater Wind Delaware, LLC for the wind power company to provide low cost, reliable and clean power to the Joint Action Agency. DEMEC was the first contract with the project in May of 2007. Now that Delmarva has signed on the contract, there are enough masks to build the project. They are now moving ahead with permitting and by 2012 to 2014, there will be windmills spinning in the Atlantic Ocean off Rehoboth and Dewey Beach.

Mr. McCullar reiterated that we need to come up with clean efficient base load generation, coal fired or nuclear, to meet future demand. The transmission infrastructure on the Delmarva Peninsula must be radically improved to serve this growing demand for electricity. The good news is that Delmarva Power and their parent company PHI have undertaken a major transmission expansion project to bring energy from Virginia across the Chesapeake into the southern part of the Delmarva Power and up along the eastern side of the state and through to New Jersey. That transmission will link two major nuclear power plants in Salem, New Jersey and Calvert Cliffs, Virginia. Both are putting in applications to build additional nuclear units. This will provide at least 2,000 megawatts of new supply and have the transmission capacity to bring that into Delaware. However, this will probably not happen until 2014 if the project runs on schedule.

Pointing out the need for more generation, Mr. McCullar then provided the following point-in time prices at 1500 hours on July 22, 2008:

AREA	\$/MWh	Percentage
PJM Wide (outside of Delaware)	191.22	
DPL Zone-Wide (Delaware and Maryland)	235.43	23%
DPL South (South of Canal)	241.55	26%
DEMEC Aggregate (Aggregation of 9 Delaware Delivery Points)	231.38	21%
Beasley Generation Cost	136.81	-28%

He explained there are many hours throughout the year that we can benefit from owning more generation.

A list of long term supplies that has been considered over time was presented. Mr. McCullar noted that many will not happen now including the Indian River IGCC Project that was scrapped when negotiations with Blue Water began. The current credit meltdown in the nation killed the Prepaid Long Term Capacity and the Energy Purchase Project and Edison Mission 10 year Cap/Energy Deal was another generator which no longer has an economic deal.

However, GenPower is a development company that is building a large pulverized coal power plant in West Virginia and is due to come on line in several years. They are talking to them about being a major outtake from that plant. Blue Water Wind Atlantic Coast Wind Farm has been contracted. The project will be built and we will have 17 megawatts with the potential to contract for 25 megawatts in the first phase. As more support is received, that position may be increased.

DEMEC is supporting the PHIMAPP Project Mid Atlantic Power Pathway as has been previously discussed. AMP-Ohio is another joint action agency similar to DEMEC but very large in Ohio and serves power to Ohio, Illinois, Indiana and some parts of Pennsylvania. A new coal plant is being constructed and discussions to take about 125 megawatts of outtake from that project are ongoing. The Beasley Expansion is an expansion of our current plant. The site was originally engineered to accommodate two 50 megawatt LM6006 units. Once the board makes a decision, a second unit could be added and placed in operation in less than fifteen months.

When asked how DEMEC knows when to buy, Mr. McCullar said they constantly look at what is going on in the market. There are a number of complicated graphs showing the expected trend and the high and low prices. If the price of energy heads to the high bar or the low bar, they consider that an economic opportunity to buy below what they expect the market will be. The price lines move every hour of the day and when they move up or down, they will buy some increment when the economic trigger points are hit.

The previous policy of buying 70% has now been changed to 90%. Mr. McCullar explained the 70% policy took advantage of the inexpensive off hour energy prices and PJM instead of buying from another supplier. Anytime energy is needed, we could step in and purchase it from the pool. Those pool prices have been extremely cheap to the forward market for the past two years as when the \$2 million was saved with the 70% policy. Unfortunately because of the high fuel prices now, it is no longer opportunistic to do that. After a discussion with the board, that policy was raised to 90%. They are now seeing in the forward period continued volatility and fuel prices. Those economic opportunities are no longer there and the policy will be changed because they cannot capitalize on that. It is better to hedge our risk and buy 90% of the power at a fixed price rather than leave some open. The decision was based on fuel price issues.

He expects fuel prices to continue to rise until the United States and the rest of the world diversifies their carbon. Right now, we depend on oil and natural gas. Supply and demand will push those prices for those two resources up because there is only so much of it. As the supply gets pressured by increasing demand, those prices will continue to rise.

Mr. McCullar believes we need to build more nuclear power and more alternate energies and develop wind, solar and geothermal power though it is not so good in Delaware. But in other parts of the country, geothermal is a very cheap technology to implement. He emphasized the need to diversify the sources of power supply we have.

In regard to the expansion of the Beasley generator, Mr. McCullar said the last major discussion was to wait and see what happens in the near future. The big decision point is what the capacity market is going to do going forward. If capacity stays up around \$180 a kilowatt day, instead of giving your money to the auction market, economically it is more feasible to build your resource and keep your money. He thinks they may just want to review a couple more years to determine the trend. If capacity drops to a price below the price of building the generation, they will not want to do it.

He reported that of the first five years of operations at the Beasley power plant, the first three years operated at a loss because it cost more money than we got out of it. The fourth and fifth years broke even and this year we were substantially ahead every month.

When asked what costs would be involved by expanding this project, Mr. McCullar anticipates capital expenditures of approximately \$25 million; bonds would be issued to raise that capital and the members would have the right to take

whatever share of that generation they wanted. That share equates to their responsibility of the debt service of that plant as was done with the first generation. With the ownership share, you are entitled to that share of whatever profits come from that generation facility.

Currently, Mr. McCullar feels it looks awfully good and some members wish they had a bigger share though the first three years they felt differently. However, that is how capital projects work and must always be considered in the long run.

Mr. Ambrose confirmed that Milford's share is 21%. Mr. McCullar noted that larger share is rewarding Milford every month now because they are getting about 15% more back than they are putting into it. He also believes that will increase as time goes on.

Mr. McCullar again reiterated that geothermal is not very good in Delaware and though it can be done, it cannot be done on any great scale. Solar is a developing technology. Mr. McCullar is currently on the Governor's Energy Advisory Council which is a group of industry people who advise the administration on what the state energy policy should be. They are revising the state energy policy done approximately three years ago. They are looking at all the technologies and with solar, there is a lot going on. There is the traditional fix surfaced solar panels which are not very efficient though they are pretty inexpensive because the technology has been around and has been perfected. However, they do not have high efficiency and do not translate sunlight into electricity with any great efficiency and possibly 15%.

Some of the newer technologies are non-rigid, flexible surface technologies that float. One is even a paint which Mr. McCullar thinks is fascinating. He reported new technologies are being developed that have much higher efficiency rates. Some are boasting 40% which is high when considering a fossil fired power plant only has about a 60% efficiency. A solar cell doing 40% is good. Solar is coming along and though it is still very expensive and needs government support to keep it moving.

Mr. McCullar emphasized to expect future increases. The costs to supply power this summer has been very high with a potential 20% increase over the summer. July and August will have very high costs. It should then fall off but through May 31, 2009, there will probably be an overall cost increase between 10 and 15% if fuel costs continue to stay as high as they are now. If they would plummet for some reason, the increase would be lower.

Mr. McCullar concluded by saying these prices change every day and there is no control over the fuel prices that impact numbers.

Mr. Baird thanked Mr. McCullar for his presentation which confirms a lot of what has been discussed and the reality of what Milford is having to face. The city manager agreed the next couple of months will be a rocky road with regard to electric rates. We will be in a reactionary position based on how the numbers come in.

Mr. Baird will continue to keep council updated on how this is playing out.

Mr. McCullar added that the board will continue to discuss how to handle this issue noting that DEMEC put \$2 million into reserves in June to keep the prices at a reasonable level. That basically exhausted the reserves they had built for power supply so at that point, it must move to the members who need to decide whether to use existing reserves or to pass the fuel costs onto their customers.

He reported the DEMEC MAPP Transmission Dinner originally scheduled for July 30, 2008 is expected to be held sometime in October.

Planning Commission Application Review

Mayor Marabello recalled the situation where we were not conforming to the charter and the code due to a conflict between the two with regard to planning commission terms. At the last meeting, it was agreed he would provide some applications which can be reviewed by council. After a review of the new applications and the current commissioners, council can make appointments at the August 11th meeting.

Mr. Crouch feels the planning commission is a strong component of the city government and agrees with what the mayor is proposing. However, he would like to suggest all applications that have been submitted should be reviewed by the mayor, City Manager Baird, Planning Commission Chairman Warfel and City Planner Norris. The applicants who are not qualified should be removed. They could also be ranked if that is preferred. Each councilman could then come back with their top nine candidates.

Mr. Spillane asked if there is anything in our code that covers conflicts with people that have jobs or other conflicts of interest. The City Solicitor said we would follow state code and the Public Integrity Commission's Conflict of Interest rules would apply. There is also a special section that deals with state employees and officials that hold public office.

Mr. Willard explained there is a difference between an individual conflict that may occur when hearing an application versus if you were to appoint your wife as a planning commissioner.

Mr. Crouch asked if this is considered a personnel matter because council will discuss people's weaknesses and strengths and if these individuals are considered personnel of the city.

Mr. Willard said without any research and not knowing if there is any case law, he thinks it probably could be considered confidential and discussed in executive session before it is aired. FOIA clearly allows council to discuss personnel matters in executive session. If an applicant is being considered with sensitive personnel information, council is not only permitted but it is wise to keep it in executive session for obvious reasons. He will check into it more.

Mr. Crouch appreciates it as he is uncomfortable discussing a person's strengths and weaknesses in front of an audience.

Mr. Willard said he would get the information before the next meeting and will follow up with the mayor at the end of the meeting.

Mr. Brooks then asked for a clarification noting there are presently nine people on the commission. Four people will be reviewing these applications who will sit down with each of these people even those currently on the commission. Those four people will then come back to council and recommend the nine they feel are best qualified.

Mayor Marabello agreed that is what is being proposed.

Mr. Spillane said he is confused because he thought the mayor is supposed to appoint the nine and bring it back to council. Mayor Marabello read in the charter that he makes the recommendations but the appointments are made by council.

Mr. Ambrose said this adds one more step with the four people making the recommendation which makes sense because the mayor does not want to take that responsibility by himself. He wants the input of the professionals who are familiar with the qualifications needed to be a good commissioner.

Mayor Marabello asked if there would be eight or nine recommendations because the planning chairman will be included in the process of making the recommendations.

Mr. Willard added that one thing that council must be sensitive to is that each of the present commissioners has a term. State law does not allow commissioners to be removed unless it is for a cause.

When asked how many applications have been submitted, the mayor answered seven or eight including the ones submitted tonight.

Mr. Willard said that Mr. Crouch suggests that four people come up with a pool of names. If there are individuals who are already on the commission whose term has not expired, council needs to have some communication with them to determine if they wish to continue to serve. If there is no one willing to step aside, but council wants to add some new people, their terms must expire first.

Mr. Ambrose said he is unaware of any terms that have been looked at. The only two that were appointed with any

restrictions on their terms were the last two appointees made by Mayor Rogers and they were only until May or June which have since expired. The rest of the commissioners were never given a time or term or a reappointment. Mr. Willard said that does not mean their terms did not expire.

Mr. Workman said that the charter states some reasons why commissioners can be removed and in particular, if they not fulfilling their duties. Therefore, council has the right to remove them as is spelled out in the charter. Mr. Willard agreed noting that state statute does allow removal for cause.

Mr. Spillane said it appears that no one has a set term and they have all been serving because they were not given terms. He thinks their terms have all expired. There was a document in the packet with proposed terms and showed expiration dates. Right now, his opinion is they have all expired.

Mr. Crouch feels that the proposed term expiration can be changed as was discussed by appointing some for 'x' number of years, some for another number of years, etc. However, he does not think that has any bearing on what council is trying to do right now which is to appoint nine good, strong commissioners. If their terms have expired, council can assign them either a one year term, two year term, etc. However, they should be staggered to prevent expiring at the same time.

Mr. Workman agreed the four reviewers should recommend the length of their terms. After the review is completed, the applicants should be ranked. In that manner, council can be provided the information and then make a decision on those recommendations.

The consensus of council was for these discussions to occur during an executive session. Mr. Willard said that when considering applications, he would recommend that be done. The downside is if someone makes a complaint, there is recourse, but he agrees it should be considered a personnel matter.

Mr. Spillane said that we are appointing a board and questioned whether a member of the board be part of the selection process. He does not think it is fair to have one person on the board that they will talk with.

Mr. Baird said it is his understanding from this discussion that council wants the mayor to work with Mr. Norris and himself to review the applications. It was suggested that Chairman Warfel be part of that review. However, because he is a current city commissioner up for reappointment, he should not be part of that process. He feels Mr. Norris and himself can provide to the mayor a good, fair sounding board. The mayor can then come back at a future meeting with nine names and proposed terms to present to council.

Mr. Crouch feels that Mr. Warfel as Chairman would have some insight as to what is needed to be a good commissioner. If his opinion is not taken into consideration, the city is missing out on a key piece.

Mayor Marabello said that between himself, Mr. Norris and Mr. Baird, he feels they can make a wise decision to be brought back to council.

Mr. Workman agrees that Chairman Warfel's opinion and recommendations should be considered but not be part of the actual selection process. Mayor Marabello agreed.

The mayor said he will sit down with the city manager and city planner and get this matter resolved.

With no further business, Mayor Marabello declared the Workshop Session adjourned.

The Workshop Session concluded at 8:59 p.m.

Respectfully submitted,



Terri K. Hudson, CMC
City Clerk/Recorder

MILFORD CITY COUNCIL
MINUTES OF MEETING
July 28, 2008

The City Council of the City of Milford held a Public Hearing on Monday, July 28, 2008 for the purpose of receiving public input regarding the recently adopted City of Milford FY 2008-09 Budget.

PRESIDING: Honorable Mayor Daniel Marabello

IN ATTENDANCE: Councilpersons Irvin Ambrose, Michael Spillane, John Workman, Clifford Crouch, Owen Brooks, Jr. and James Starling, Sr.

STAFF: City Manager David Baird, Police Chief Keith Hudson and City Clerk/Recorder Terri Hudson

COUNSEL: City Solicitor Timothy Willard

Mayor Marabello called the Public Hearing to order at 7:05 p.m., followed by a reading of the Public Notice.

City Manager Baird advised the FY 2008-2009 budget began July 1, 2008 and runs through June 30, 2009. The FY 2008-09 budget is \$42,744,810 which is an increase of \$2,609,420 or 6.5% over the previous year. It is important to recognize this increase is a result of projected cost increases for purchased power in the electric fund in the amount of \$2,664,025. The budget increases for each fund are as follows:

	<u>\$ Increase over FY07-08</u>	<u>% Increase</u>
General Fund	\$ 120,445	1.49%
Water Fund	1,180	0.04%
Sewer Fund	80,390	2.13%
Sanitation Fund	35,000	3.54%
Electric Fund	2,372,405	9.53%

Following an overview by the city manager, Mayor Marabello opened the hearing for public comment.

No one wished to comment on the budget. Subsequently, Mayor Marabello closed the hearing for public comment.

When asked for comments from the council, Councilman Spillane stated he voted against the annual budget because council handled it incorrectly by not allowing the public to comment before it was passed. He cannot understand how council can pass a budget without public comment.

Mr. Ambrose, Chairman of the Finance Committee, recalled that the budget hearings were open to the public. At the beginning of the hearings, he announced that anyone who had comments or questions could discuss those at the conclusion of the hearings. For the record, he announced that no one from the public was in attendance.

Mr. Crouch added that it should be noted, on the record, that no one commented on the budget again at this hearing.

Mr. Spillane then added that he had a problem hiring four new people because next year or the next two years the city may be in for some bad times. He prefers hiring temp employees if additional help is needed to assist until we know what cash flow we will have from taxes. He stated that is another reason he voted no.

The city manager confirmed the budget was approved on June 23, 2008 but was contingent on public comment at this time. It was agreed at that time any comments received would be reviewed by the finance committee and appropriate recommendations considered.

Mr. Baird then advised it is councils' choice to proceed and consider the budget adopted; however, another vote can be taken if they wish to confirm the action previously taken at the time of the budget adoption.

Mayor Marabello stated the budget was previously approved subject to any comments received this evening. Mr. Brooks agreed it was already adopted by city council.

Mr. Ambrose moved to adjourn the Public Hearing, seconded by Mr. Crouch. Motion carried.

The Public Hearing was adjourned at 7:14 p.m.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Terri K. Hudson".

Terri K. Hudson, CMC
City Clerk/Recorder

MILFORD CITY COUNCIL
MINUTES OF MEETING
July 28, 2008

The City Council of the City of Milford held a Public Comment Session on Monday, July 28, 2008 prior to the commencement of the official City of Milford Council Meeting to allow the public to comment about issues of interest that affect the City of Milford.

PRESIDING: Honorable Mayor Daniel Marabello

IN ATTENDANCE: Councilpersons Irvin Ambrose, Michael Spillane, John Workman, Clifford Crouch, Owen Brooks, Jr. and James Starling, Sr.

STAFF: City Manager David Baird, Police Chief Keith Hudson and City Clerk/Recorder Terri Hudson

COUNSEL: City Solicitor Timothy Willard

Mayor Marabello declared the Public Comment Session open at 7:15 p.m., but was immediately notified by Mr. Spillane that rules for speaking had already been established by a prior resolution and questioned the validity of additional rules passed at the previous meeting regarding the 15-minute comment period. He then passed out paper copies of a resolution adopted by council on April 8, 2002.

The mayor offered to later discuss the matter and if it determines it is pertinent, the rules can be changed. He asked if it would adversely affect what the public was permitted to do this evening and Mr. Spillane said yes. Mayor Marabello's opinion was the concern should have been presented during the discussions to establish rules and guidelines. Mr. Spillane explained he only found it this evening when he was searching on the internet.

Mayor Marabello again stated he would discuss the matter at a later date noting that new rules have been adopted; he also advised this item is not on the agenda and cannot be considered as this is a session for public comment only.

Mayor Marabello reviewed the rules for public comment noting that 15 minutes have been allocated for the public to speak and what is now being presented is not for the purpose of a session. He added that if any person has further comments or questions, he encouraged they be forwarded to the council representative or return for the next public comment session.

The mayor then announced two persons signed up.

Lawrence Sullivan of 6 East Thrush Drive, Meadows at Shawnee, stated he had three items. The first is when the bi-weekly pickup of recycling was approved, there was a motion added that any home with overflowing garbage would either be given an opportunity to sign up for recycling or be required to have a second can at their expense. He does not see any follow up on enforcement. His concern is what will occur when we change to bi-weekly recycling pickups next month. He reported how bad it is on garbage day and asked council to consider this in their wards.

He stated the second issue is the damaged, missing and faded street signs that were to be replaced. He feels there has not been any progress on this and is aware of some visitors who came to town and cannot find streets as a result of this situation.

His third issue is although they may be good and worthwhile causes, he does not agree with the city giving money to outside organizations. Mr. Sullivan believes this sets a bad precedence and could cause other organizations to complain of bias if they are denied these monies. He believes there is a question of legality if the citizens of Milford do not get to vote on the use of these monies being given to outside interests not related to city matters.

Archie Campbell of 6 Little Pond Drive, Meadows at Shawnee, stated he has one comment. There was a meeting on July 17th at the fire hall when fire sirens were discussed. There are four sirens in town of which two are working and two are not working. He asked when those not working will be fixed.

Mayor Marabello asked for council comment. Mr. Brooks asked which signs Mr. Lawrence was referring to, he stated there are a number of signs in town and one in particular was on Rehoboth Boulevard. He said coming into town, there

are very few street signs.

The mayor stated he would take care of it.

Mr. Workman said he has made a list of signs in the second ward which was provided to the city manager. Within a couple of weeks, many of the signs were taken care of by the street department.

Mr. Ambrose said he believes the fire sirens belong and are controlled by the fire department. Any changes in the sirens must go through emergency planning.

Mr. Baird will follow up with the fire company.

With no other person signed up, the mayor closed the Public Comment Session at 7:20 p.m.

Respectfully submitted,

A handwritten signature in cursive script that reads "Terri K. Hudson".

Terri K. Hudson, CMC
City Clerk/Recorder